

GUILLERMO S. SAPALARAN, PLAINTIFF-APPELLEE, VS. HON. ERNESTO S. MATA, SECRETARY OF NATIONAL DEFENSE, ET AL., OPPOSITORS-APPELLANTS.

G.R. No. L-30255. October 26, 1973

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

Guillermo S. Sapalaran was called to active duty in the Armed Forces of the Philippines on December 11, 1941 and continued on active duty until March 23, 1961. He went on leave from March 24, 1961 to January 16, 1962, and returned to active duty on January 17, 1962. On December 1, 1963 he was reverted to inactive status. Recalled to active duty on March 1, 1967, he served up to August 31, 1967.

On September 1, 1967 he found himself deactivated on orders of the then Secretary of National Defense Ernesto S. Mata.

Aggrieved, Sapalaran filed with the Court of First Instance of Rizal, on December 5, 1967, a petition for mandamus and damages against the top officials of the Department of National Defense and of the Armed Forces of the Philippines (hereinafter referred to as the appellants), impugning his reversion to inactive status as improper and irregular, and seeking to compel the said officials to recall him to active commissioned service. In addition, he demanded payment of his basic salary, longevity pay and quarters allowance corresponding to the period from the date of his last reversion to inactive status, with legal interest thereon. He also asked that, in the event of non-payment from Government funds of his aforementioned demands, the appellants be adjudged, in their personal capacity, to pay the same jointly and solidarily. Sapalaran also asked the court a quo to sentence the appellants, jointly and solidarily, to pay him P10,000 in moral damages, P5,000 attorney's fees, as well as exemplary damages.

Answering Sapalaran's petition, the appellants asserted that his reversion to inactive status was proper and regular, pursuant to the mandate of Republic Act 2334[1] which provides for the rotation of reserve officers as well as the reversion of reserve officers on active duty to inactive status.

The court a quo, on November 11, 1968, rendered judgment for Sapalaran, adjudging him entitled to the protection (from reversion) afforded by Republic Act 1382[2] and the pertinent provisions of Republic Act 1600,[3] and ordering the appellants to reinstate him to active commissioned service and to pay to him all the emoluments of his rank from the time of his reversion to inactive status until his removal for cause after proper court-martial proceedings or until Sapalaran himself applies for reversion.

Hence, the present petition for review filed by the appellants, praying for the reversal of the judgment a quo.

Resolution of the case at bar hinges on the proper interpretation and application of the pertinent provisions of R.A. 1382, 1600 and 2334.

Section 1 of R.A. 1382 recites as follows:

"Reserve Officers with at least ten years of active accumulated commissioned service who are still on active duty at the time of the approval of this Act shall not be reverted into inactive status except for cause after proper court-martial proceedings or upon their own request: Provided, That for purposes of computing the length of service, six months or more of active service shall be considered one year."

R.A. 1382 took effect on June 18, 1955.

The pertinent portion of paragraph 11 of the "Special Provisions on the Armed Forces of the Philippines" of R.A. 1600 (National Budget for the fiscal year 1956-1957) states:

"After the approval of this Act, and when there is no emergency, no reserve officer of the Armed Forces of the Philippines may be called to a tour of active duty for more than two years during any period of five consecutive years: PROVIDED, That hereafter reserve officers of the Armed Forces of the Philippines on active duty for more than two years on the date of the approval of this Act except those whose military and educational training, experience and qualifications are deemed essential to the needs of the service, shall be reverted to inactive status within one year from the approval of this Act: PROVIDED, FURTHER, That reserve officers with at least ten years of active accumulated commissioned service who are still on active duty at the time of the approval of this Act shall not be reverted to inactive status except for cause after proper court-martial proceedings or upon their request: PROVIDED, FURTHER, That any such reserve officer reverted to inactive status who has at least five years of active commissioned service shall be entitled to a gratuity equivalent to one month's authorized base and longevity pay in the rank held at the time of such reversion for every year of active commissioned service: x x x."

R.A. 1600 took effect on July 11, 1956.

Secs. 2 and 3 of R.A. 2334 pertinently state:

"SEC. 2. After the approval of this Act, and except in time of emergency, no reserve officer shall be called to extended tours of active duty exceeding a total of two years within any period of five consecutive years: Provided, That reserve officers on active duty for more than two years on the date of approval of this Act, with the exception of those covered by section three of this Act, shall be reverted to inactive status within three years from the approval of this Act: x x x."

"SEC. 3. The provisions of section two of this Act shall not apply to reserve officers covered by the provisions of Republic Act Numbered Thirteen Hundred Eighty-Two nor to those possessing technical qualifications, skills, and competence which are indispensable to the needs of the Armed Forces of the Philippines and for whom there are no satisfactory replacements from among reserve officers in the inactive status: Provided, That the selection of such officers shall be as determined by a Board of Officers to be appointed by the Chief of Staff."

R.A. 2334 took effect on June 19, 1959.

The parties are agreed that

"On June 18, 1955, the date when Republic Act No. 1382 took effect, the petitioner [Sapalaran] had been on active accumulated commissioned service in the Armed Forces of the Philippines for a total of eight years, six months and seventeen days (8 yrs., 6 mos., and 17 days);

"On July 11, 1956, the date when Republic Act 1600 took effect, the petitioner [Sapalaran] had been on active accumulated commissioned service in the Armed Forces of the Philippines for a total of nine years, seven months and ten days (9 yrs., 7 mos., and 10 days)." (Joint Stipulation of Facts)

The crucial issue is whether or not Sapalaran was properly reverted to inactive status pursuant to the provisions of R.A. 2334. Resolution of this question necessitates a determination of whether or not section 1 of R.A. 1382

(which section considers, for purposes of computing the length of service of reserve officers, six months or more of active service as equivalent to one year) should be taken into account in the implementation of paragraph 11 of the "Special Provisions on the Armed Forces of the Philippines" of R.A. 1600.

Sapalaran claims that he falls within the mantle of the protection afforded by R.A. 1382, construed in relation to paragraph 11 of the "Special Provisions on the Armed Forces of the Philippines" of R.A. 1600. He argues that the relevant provisions of R.A. 1600 secure against deactivation every reserve officer with at least ten years of active accumulated commissioned service as of the time of the approval of the said Act on July 11, 1956. The statute, he adds, makes only two exceptions: reversion for cause after proper court-martial proceedings, and reversion upon the request of the reserve officer concerned.

Sapalaran claims that since the pertinent provisions of R.A. 1600 do not prescribe any rule for computing the length of active service, the mode of computation prescribed by R.A. 1382 -- the previous unrepealed law -- applies. Thus, following the computation clause of R.A. 1382 -- considering his seven months of active commissioned service as equivalent to one year -- Sapalaran alleges compliance with the ten-year period of active commissioned service requirement of the relevant provisions of R.A. 1600.

Recapitulating, he avers that R.A. 1382, and the applicable provisions of R.A. 1600 govern his case. Since section 3 of R.A. 2334 expressly exempts from reversion those covered by R.A. 1382, it results that the appellants misinterpreted and misapplied R.A. 2334, and therefore improperly deactivated him.

Disagreeing with Sapalaran, the appellants methodically proceed by stating that R.A. 1382 protects from reversion only those reserve officers with at least nine years and six months of active commissioned service as of the time of the approval of the said law on June 18, 1955. On the other hand, because the relevant provisions of R.A. 1600 do not prescribe the manner of computing the length of active commissioned service of reserve officers entitled to protection from reversion, R.A. 1600 secures against deactivation only those with at least ten full years of active commissioned service as of the time of its approval on July 11, 1956.

At the time of the approval of R.A. 1382, the appellants assert, Sapalaran had rendered only eight years, six months and seventeen days of active commissioned service. Therefore, R.A. 1382, which requires at least nine years and six months of active commissioned service, disarms him of any protective shield against reversion to inactive status. And at the time of the approval of R.A. 1600, Sapalaran had to his credit only nine years, seven months and ten days of active commissioned service. Thus, even R.A. 1600, which requires at least ten full years of active commissioned service, provides no built-in justification for Sapalaran's stand that the pertinent provisions of the said law secure him against deactivation.

R.A. 2334, invoked by the appellants in reverting Sapalaran to inactive status, aims "to provide the compulsory rotation of reserve officers in the active service of the Armed Forces of the Philippines in order to meet the training needs of the reserve officers corps." [4] To give full effect to the program of activating, training and strengthening the reserve officer corps of the armed forces, R.A. 2334 prohibits the calling of reserve officers to extended tours of active duty for a period exceeding a total of two years within any period of five consecutive years. Subject to the exceptions indicated in section 3 thereof, the same law provides for the reversion to inactive status of reserve officers who had been on active duty for more than two years on the date of the approval of the said law. Section 3 protects from reversion (1) those possessing technical qualifications, skills, and competence indispensable to the needs of the armed forces and unreplaceable by reserve officers in inactive status; and (2) those covered by the provisions of R.A. 1382.

R.A. 1382 seeks to reward with automatic integration into the military service or security of tenure therein reserve officers with loyal, efficient and faithful service to the country in time of war and in time of peace. [5] This

security of tenure, however, is granted only to reserve officers with ten years of active commissioned service as of June 18, 1955 (or at least nine years and six months of active commissioned service as of the same date per the computation clause provided for by the said law). The pertinent provisions of R.A. 1600 make absolutely no reference whatsoever to the computation clause of R.A. 1382 nor to any of the provisions of the latter Act.

R.A. 1382 and 2334 and paragraph 11 of the "Special Provisions on the Armed Forces of the Philippines" of R.A. 1600, all read together, purport to render effective the reversion program for reserve officers on active duty in the armed forces. The integrated entirety of these statutes aims to achieve the gradual deactivation of those ineligible for retention in the active service. To cushion the impact of the program upon the reserve officers then already in active service, these statutes provide for a year-to-year deactivation schedule. The gradual reversion program seeks to enable the armed forces to fully implement the rotation of other reserve officers into active service, in order to accord them every opportunity to acquire ample training for the purposes of an effective reserve corps. An amply trained reservoir of reserve officers demands the strict implementation of this program.

Sapalaran's interpretation of R.A. 1382, in relation to paragraph 11 of the "Special Provisions on the Armed Forces of the Philippines" of R.A. 1600, tends to change the direction of the gradual deactivation schedule contemplated by the statutes herein involved. His self-serving appreciation of the pertinent provisions of R.A. 1600 would cloak with the mantle of protection from reversion those reserve officers with less than nine years and six months of active commissioned service as of June 18, 1955 (the date of approval of R.A. 1382) as well as those with less than ten full years of active commissioned service as of July 11, 1956 (the date of approval of R.A. 1600). Such construction undeniably jeopardizes the gradual reversion plan of the armed forces affecting reserve officers on active duty by allowing those ineligible for integration into and retention in the military service at the time of the approval of R.A. 1382 to enjoy the protective shelter furnished by the relevant provisions of R.A. 1600. In effect, this permits reserve officers in active service to overcrowd in the armed forces, unduly denying elbow room to deserving reserve officers needful of training by way of rotation in the active military service.

Thus, there arises the need for a logical and rigid construction of the pertinent provisions of R.A. 1382, 1600 and 2334. Sapalaran had to his credit only eight years, six months and seventeen days of active commissioned service as of June 18, 1955. R.A. 1382 protects from reversion only those with at least nine years and six months of active commissioned service as of June 18, 1955. Sapalaran had to his credit only nine years, seven months and ten days of active commissioned service as of July 11, 1956. R.A. 1600 secures against deactivation only the those with at least ten full years of active commissioned service as of the same date. And this is as it should be. If the minimum period of active commissioned service prescribed by R.A. 1382 was, in effect, nine years and six months as of June 18, 1955, why should exactly the same period of active commissioned service be regarded as the minimum as of July, 1956, after the lapse of more than one year from June 18, 1955?

Of incalculable significance, in this connection, is the fact that R.A. 2334 (section 3) secures against deactivation only the reserve officers protected against reversion to inactive status by R.A. 1382. R.A. 2334 omits any mention of or reference to R.A. 1600.

The inevitable conclusion follows that the appellants properly reverted Sapalaran to inactive status pursuant to the mandate of R.A. 2334.

There remains another question necessitating resolution. Sapalaran claims in his favor a communication from the armed forces, dated December 14, 1961, informing him of his selection for retention in the active service under section 3 of R.A. 2334. He alleges that this letter, which he regards as an admission on the part of the armed forces of his retention in the active service, guarantees his security of tenure therein.

While the appellants make no denial that Sapalaran was on extended tour of active duty from January 17, 1962 to

November 30, 1963, they nonetheless explain that it is precisely in compliance with section 2 of R.A. 2334 -- which prohibits the calling of reserve officers to extended tours of active duty for a period exceeding a total of two years within any period of five consecutive years -- that the then Chief of Staff of the armed forces ordered the termination of Sapalaran's extended tour of active duty.

Notably, the foregoing incident relates to the first reversion of Sapalaran to inactive status effected on December 1, 1963. Against this reversion he registered no protest. Thereafter, that is, more than three years later, he was granted another extended tour of active duty, from March 1, 1967 up to August 31, 1967. It is his subsequent reversion to inactive status on September 1, 1967 that he vehemently protested.

Indeed, the presence in the joint stipulation of facts submitted by the parties of a statement that "From September 1, 1967, petitioner has not received his salary, longevity pay, and allowances;"[6] attests to this. Sapalaran's claim relative to the communication he received from the armed forces informing him of his retention in the active service properly pertains to his first reversion effected on December 1, 1963 against which he made no protest. Thus, the said claim of Sapalaran constitutes no legal impediment to his second deactivation on September 1, 1967.

Assuming arguendo the availability of the aforementioned claim of Sapalaran as a defense against his subsequent reversion to inactive status, still, there exists the satisfactory explanation by the appellants that the then Chief of Staff of the armed forces ordered the termination of Sapalaran's extended tour of active duty pursuant to the mandate of section 2 of R.A. 2334. This action of the then Chief of Staff of terminating Sapalaran's extended tour of active duty -- which continued tour of active duty was manifestly not in consonance with the intendment of section 2 of R.A. 2334 -- renders ineffectual Sapalaran's stand.

ACCORDINGLY, the judgment a quo dated November 11, 1968 is reversed, and the action of the officials of the Department of National Defense and Armed Forces of the Philippines of reverting Guillermo S. Sapalaran to inactive status is hereby upheld. No costs.

Makalintal, C.J., Fernando, Teehankee, Barredo, Antonio, and Esguerra, JJ., concur.
Zaldivar and Makasiar, JJ., no part.

[1] "AN ACT PROVIDING FOR THE ROTATION OF RESERVE OFFICERS OF THE ARMED FORCES OF THE PHILIPPINES IN THE ACTIVE MILITARY SERVICE."

[2] "AN ACT GRANTING RESERVE OFFICERS WITH AT LEAST TEN YEARS OF ACTIVE ACCUMULATED COMMISSIONED SERVICE SECURITY FROM REVERSION."

[3] "AN ACT APPROPRIATING FUNDS FOR THE OPERATION OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES DURING THE PERIOD FROM JULY FIRST, NINETEEN HUNDRED AND FIFTY-SIX TO JUNE THIRTIETH, NINETEEN HUNDRED AND FIFTY-SEVEN, AND FOR OTHER PURPOSES."

[4] Explanatory note to House Bill 1619 (which later became Republic Act 2334), Congressional Record, Fourth Congress, First Regular Session, volume I, number 67, page 2288.

[5] Explanatory note to House Bill 1817 (which later became Republic Act 1382), Congressional Record, Third Congress, First Regular Session, volume I, number 72, page 2778.

[6] Paragraph 11 of Annex "A" (p.14, Rollo).

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