

**GEN. ROMEO ESPINO, IN HIS CAPACITY AS CHIEF OF STAFF OF THE ARMED FORCES OF THE PHILIPPINES, AND THE JUDGE ADVOCATE GENERAL, AFP, PETITIONERS, VS. COL. JIMENO CLEOFE, ET AL.,
RE...**

G.R. No. L-33410. July 13, 1973

Ponente: CASTRO, J.

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CASTRO, J.:

Appeal by certiorari by the Chief of Staff and the Judge Advocate General of the Armed Forces of the Philippines from a decision dated March 17, 1971 of the Court of First Instance of Rizal, Branch XVI (Quezon City), in civil case Q-14835, involving a petition (for declaratory relief) filed by the herein eighteen (18) respondents, namely, Jimeno Cleofe, Canares Aban, Mario Billano, Sancho Cuasay, Silverio Dalugdug, Benjamin de Guzman, Roberto Doctura, Gregorio Fider, Wlademero Federis, Raymundo Flores, Ricardo Fullon, Virgilio Hipolito, Jose Ignacio, Jesus Sibayan, Edmundo Paras, Venancio Tapia, Edilberto Tobias and Florentino Villa Crusis, for a judicial declaration of their rights under Republic Act 1862, as amended by Republic Act 4902, in the matter of conversion of lump sum gratuity to annual retirement pension.[1]

The specific substantive issue posed is whether the privilege of converting lump sum gratuity to annual retirement pay granted by R.A. 4902 (amending R.A. 1862, as amended) may be availed of only by members of the Armed Forces of the Philippines who retired after June 22, 1957 but before the effectivity of R.A. 4902 on June 17, 1967. Resolving this issue, the court below declared that the said "benefit of converting lump sum to monthly pension as provided in Sec. 2 of Republic Act 4902 may be enjoyed by any qualified member of the Armed Forces covered by the Armed Forces Retirement Act whose effective date of retirement is after June 22, 1957." Necessarily implied from the judgment a quo is the conclusion that the privilege in question may be availed of by any qualified member of the Armed Forces who retires even after June 17, 1967, the date of effectivity of R.A. 4902.

We set aside, for the reasons hereinafter stated.

The basic law governing the retirement of military personnel is R.A. 340, otherwise known as the "Armed Forces Retirement Act," which took effect on July 20, 1948.[2] Under this law, any person in the military service who retires may elect either (a) a lump sum payment in the form of "a gratuity equivalent to one month of his base and longevity pay on the date of retirement for every year of service;" or (b) "an annual retirement pay equivalent to two and one-half percent of his annual base and longevity pay received by him on the date of retirement for each year's active service rendered but not exceeding seventy-five percent of the total base and longevity pay received by him on the date of retirement, such retirement pay to be payable in equal monthly installments." The election of one, pursuant to a ruling of the Office of the President embodied in an indorse-ment to the Auditor General dated July 12, 1955, precludes recourse to the other. When a retiree elects lump sum gratuity, he generally receives in one lump sum the equivalent of forty (40) months' pay. However, unlike one who elects monthly pension payment and is thus assured a monthly annuity for life, a lump sum retiree is denied the right to receive

any monthly annuity after he outlives the span of forty months which represent the computed period covered by the lump sum gratuity.

To afford relief to such lump sum retirees, Congress enacted R.A. 1862, which took effect on June 22, 1957, giving lump sum retirees, whose effective date of retirement was prior to January 1, 1955, the privilege of converting their lump sum gratuity to annual pension. The relevant provisions of this law recite:

"Sec. 1. The provisions of existing law to the contrary notwithstanding, and subject to the special provisions and limitations hereinafter provided, the provisions of Republic Act Numbered Three hundred forty, including all amendments thereto on the date this Act takes effect, shall be and are hereby made applicable to persons (1) retired under the provisions of Commonwealth Act Numbered One hundred ninety, or (2) honorably separated with gratuity under subsection (g), section twenty-two of Commonwealth Act Numbered One, otherwise known as the National Defense Act, or (3) retired under Republic Act Numbered Three hundred forty with effective date of retirement prior to January one, nineteen hundred fifty-five, or (4) retired under Act Numbered Forty-one hundred fifty-one, and which persons --

"(a) were in the active service of the Philippine Army or any guerrilla organization duly recognized as a component thereof, at any time between December eight, nineteen hundred forty-one and September two, nineteen hundred forty-five; and

"(b) had completed at least twenty years' active service on the date of their original retirement or separation: Provided, That persons separated with gratuity on account of physical disability under subsection (g), section twenty-two of Commonwealth Act Numbered One who had less than twenty years' active service on the date of their original separation, shall be entitled to the benefits of the proviso contained in section eight of Republic Act Numbered Three hundred forty.

"Sec. 2. Persons who were retired and paid gratuity under said Republic Act Numbered Three hundred forty, as amended, with effective date of retirement prior to January one, nineteen hundred fifty-five, and who come within the purview of clauses (a) and (b) of the preceding section may, at their option, elect to receive in lieu of such gratuity paid to them the annual retirement pay as provided in section two of the said Act; and upon making such election, said persons shall, subject to the provisions and limitations hereinafter provided, be entitled to receive said annual retirement."

On June 16, 1962 section 2 of R.A. 1862 was amended by R.A. 3462 to extend the same privilege of conversion to lump sum retirees who retired prior to June 22, 1957. The said amendment reads:

"Sec. 2. Persons who were retired and paid gratuity under said Republic Act Numbered Three hundred forty, as amended, with effective date of retirement prior to June twenty-two, nineteen hundred fifty-seven, and who come within the purview of clauses (a) and (b) of the preceding section may, at their option, elect to receive in lieu of such gratuity paid to them the annual retirement pay as provided in Section 2 of the said Act; and upon making such election, said persons shall, subject to the provisions and limitations hereinafter provided, be entitled to receive said annual retirement. The option herein granted may be exercised with-in five years from the date of the approval of this amendatory Act by the widows and/or minor children of the said retirees who could not exercise the said option by reason of death."

On June 17, 1967 section 2 of R.A. 1862 was further amended by R. A. 4902, to read as follows:

"Sec. 2. Persons who were retired and paid gratuity under said Republic Act Numbered Three hundred forty and/or Republic Act Numbered Sixteen hundred sixteen, as amended, with effective date of retirement after June twenty-two, nineteen hundred fifty-seven and who come within the purview of clauses (a) and (b) of the preceding section may, at their option, elect to receive, in lieu of such gratuity paid to them the annual retirement pay as provided in Section two of the said Act; and upon making such election, said persons shall, subject to the provisions and limitations hereinafter provided, be entitled to receive the annual retirement pay

as provided in Section two of the said Act. The option herein granted may be exercised within five years from the date of the approval of this amendatory Act by the widows and/or minor children of the said retirees who could not exercise the said option by reason of death. Nothing in this section shall be construed as authorizing payment of retire-ment pay which have accrued prior to the approval of this Act."

To justify their position that the cited provision of R.A. 4902 applies to military personnel who retire even after June 17, 1967 (the date of effectivity of R.A. 4902), the respondents (who were sustained by the court *a quo*) cite the following:

(a) a portion of the explanatory note to House Bill 1271 (which became R.A. 4902), which reads as follows:

"The bill seeks to further amend Republic Act No. 1862 by authorizing officers and enlisted men who retired after June 22, 1957, and who received lump sum gratuity, to receive monthly pension. This amendment will, in effect, remove any inequities in the Armed Forces Retirement Act;"

(b) a portion of the sponsorship speech of Sen. Jose W. Diokno, to wit:

"xxx Essentially, the purpose of this measure is to equalize and render justice to members of the Armed Forces who retired after June 22, 1957 and opted to choose to obtain a lump-sum retirement payment and who had outlived this and now desire to convert this lump-sum retirement payment into a monthly pension;" and

(c) the fact that while the said House Bill 1271 originally set December 31, 1965 as the deadline date until which the proposed privilege of conversion may be exercised, this dead-line date was deleted in the finally approved version of the bill which became R. A. 4902.

It is our view that the foregoing citations are inadequate tests for determining the legislative intent behind the provision of R. A. 4902 in question. It will be noted that both the cited explanatory note and the remarks of Sen. Diokno refer to members of the armed forces who had already retired and had received a lump sum gratuity and "now desire to convert" their lump sum gratuity to monthly annuity. Indeed, the gist of the petitioners' theory, with which we agree, is precisely that the intendment of the law, as disclosed in the clear and unmis-takable language of the questioned provision of R.A. 4902, is that the privilege of converting lump sum payment to annual pension may be enjoyed only by those who retired after June 22, 1957 but before June 17, 1967 (when R.A. 4902 took effect). The said provision specifically and explicitly refers only to "Persons who were retired and paid gratuity under Republic Act Numbered Three hundred forty... with effective date of retirement after June 22, 1957..." (underscoring supplied)

A cardinal rule in the interpretation of statutes is that the meaning and intention of the law-making body must be sought, first of all, in the words of the statute itself, read and considered in their natural, ordinary, commonly-accepted and most obvious significations, according to good and approved usage and without resorting to forced or subtle construction. Courts, therefore, as a rule, cannot presume that the law-making body does not know the meaning of words and the rules of grammar. Consequently, the grammatical reading of a statute must be presumed to yield its correct sense.[3] Thus, because the law uses the words "retired and paid gratuity" in referring to the members of the armed forces who might take advantage of its provisions, this Court cannot, in the absence of any ambiguity in the law itself, construe the said words as including military personnel who would yet retire and be paid their lump sum gratuity after the law took effect. It is also a well-settled doctrine in this jurisdiction that statements made by individual members of Congress in the consideration of a bill do not necessarily reflect the sense of that body and are, consequently, not controlling in the interpretation of the law.[4]

We approvingly quote the following discussion excerpted from pp. 9 to 11 of the brief of the Solicitor General:

"The conversion privilege under Republic Act 4902 can be availed of only by those who were retired AFTER June 22, 1957, but BEFORE the effectivity of Republic Act 4902 on June 17, 1967. This position is supported

by the explanatory note of the said law which amended Republic Act 1862. By necessary implication, the persons referred to are those who were retired and had received the gratuity in lump sum after June 22, 1957, but prior to the approval of the Act on June 17, 1967. The pertinent portion of the explanatory note reads: 'Pursuant to Republic 1862, officers and enlisted men of the Armed Forces of the Philippines who retired from the service under the provisions of Republic Act No. 340, as amended, with effective date of retirement on or prior to January 1, 1955, were authorized to receive annual retirement pay in lieu of the lump sum gratuity they received upon their retirement. This Act was amended by Republic Acts Nos. 2331 and 3462, approved on June 19, 1959 and June 16, 1962, respectively, thereby extending the same benefit of monthly pension to the officers and men who retired on or prior to June 22, 1957. Those who retired thereafter and who were also paid lump sum gratuity upon their retirement, are not authorized to receive annual retirement pay in view of the absence of similar legislation.'

"The legislative intent, as above-stated, is carried out by the wording and context of the Act itself. The law speaks of 'persons who were retired and paid gratuity.' This is the same phrase that appears in Section 2 of Republic Act 1862, as amended by Republic Act 4902. x x x A contrary interpretation which would allow or authorize retired military personnel, present or future, to convert the lump sum gratuity to annual pension, would virtually abolish the essential distinction between the two types of retirement benefits, and render the 'option' under the law meaningless and nugatory. There is nothing in the amendment which expressly, or by necessary implication, abolishes the two types of retirement benefits and the option that the law gives to a retiree to choose one or the other."

ACCORDINGLY, the judgment a quo dated March 17, 1971 is hereby set aside. No pronouncement as to costs.

Makalintal, (Acting C.J.) Zaldivar, Fernando, and Esguerra, JJ., concur.

Barredo, J., concurs in the majority opinion of Justice Fred Ruiz Castro.

Teehankee, J., dissents in a separate opinion.

Makasiar, J., concurs in the dissent of Mr. Justice Teehankee.

Antonio, J., took no part.

[1] When this suit was instituted below in August, 1970, all the respondents were full colonels of the Armed Forces of the Philippines who were due for compulsory retirement on January 21, 1971 and April 1, 1971, except Cleofe and Federis who retired on April 10, 1970 and Hipolito who retired on December 5, 1970.

[2] Section 2 of R.A. 340, as amended, reads: "Sec. 2. When an officer or enlisted man is retired under the provisions of Section one above, he shall, at his option, receive a gratuity equivalent to one month of his base and longevity pay on the date of retirement for every year of service, such gratuity to be payable in one lump sum, or an annual retirement pay equivalent to two and one-half percent of his annual base and longevity pay received by him on the date of retirement for each year's active service rendered but not exceeding seventy-five percent of the total base and longevity pay received by him on the date of retirement, such retirement pay to be payable in equal monthly installments * * *."

[3] Black, Interpretation of Laws, pp. 48-53; Guevarra vs. Inocentes, G.R. No. L-25577, March 15, 1966, 16 SCRA 383; Tecson vs. Social Security System, G.R. No. L-15798, Dec. 28, 1961, 3 SCRA 737; Tañada vs. Yulo, 61 Phil. 515; U.S. vs. Fisher, 2 L. Ed. 304.

[4] Casco Philippine Chemical Co., Inc. vs. Gimenez, G.R. No. L-17931, Feb. 28, 1963, 7 SCRA 350; Philippine Ass'n of Government Retirees vs. GSIS, G.R. No. L-20503, June 30, 1965, 14 SCRA 619; Resins, Inc. vs. Auditor General, G.R. No. L-17888, Oct. 29, 1968, 25 SCRA 756.

DISSENTING

TEEHANKEE, J.:

I am constrained to dissent, with due regard for the views expressed in the main opinion of Mr. Justice Castro. I believe that the legislative history of Republic Act 4902, which took effect on June 17, 1967, quite clearly evinces the clear legislative intent to remove thereby the inequalities and discriminations caused by the limiting dates fixed by Republic Acts 1862 (up to January 1, 1955) and 3462 (up to June 22, 1957) so that the benefit of conversion of lump sum gratuity to monthly pension may be uniformly enjoyed by all members of the Armed Forces of the Philippines as in the civil service.

Hence, Republic Act 4902 completely eliminated the classification of retirees based on the mere chance of dates of their retirement, and making all military retirees qualified to retire under Republic Act 340 - whether retiring before June 22, 1957 as fixed in Republic Act 3462, or thereafter, - beneficiaries of the privilege.

The bill's (House Bill No. 1271) explanatory note bears this out, as follows:

"This will seek to further amend Republic Act No. 1862, by authorizing the officers and enlisted men who retired after June 22, 1957, and who also received lump sum gratuity, to receive monthly pension. This will, in effect, remove whatever inequalities there are in the present Armed Forces Retirement Act."

Thus, while House Bill No. 1271 was originally intended to absolutely eliminate the deadline so that the benefit may be enjoyed uniformly by all, it was approved by the lower house, again with a limiting date, December 31, 1965. When the bill reached the Senate for consideration, an amendment was introduced by the senate committee headed by its sponsor, Sen. Jose W. Diokno, to completely do away with discriminatory classification of retirees by mere accident of date of retirement, and put an end to the practice of army officers periodically having to go to Congress to ask for further legislation extending the application of the privilege. The clear legislative intent in the enactment of Republic Act 4902 is patent from the deliberations in the Senate quoted at length in respondents' brief, as follows:

"SPONSORSHIP SPEECH OF SENATOR JOSE W. DIOKNO

"Senator DIOKNO, Mr. President and Distinguished Colleagues; x x x Essentially, the purpose of this measure is to equalize and render justice to members of the Armed Forces who retired after June 22, 1957 and opted to choose to obtain a lump-sum retirement payment and who had outlived this and now desire to convert this lump-sum retirement payment into a monthly pension.

"Briefly, our Army Retirement Law provides two ways or two options to a retiree. The first is to retire and obtain a lump-sum payment, and the second is to retire on a monthly annuity. Under the basic retirement law, once a choice is made it is the final choice, so that the retiree cannot subsequently, after having chosen one method, choose another. Nevertheless, Congress had enacted Republic Act 2331 and Republic Act 3462 which were approved in 1959 and 1962 respectively and allowed members of the Armed Forces who retired prior to June 22, 1957 and obtained a lump sum retirement payment to convert that into a monthly annuity retirement so that those who retire after 1957 have been denied the same privilege as those who retired prior to 1957. The purpose of this measure is to correct that inequity, to place all those retirees from and after June 22, 1957 on the same level as those who retired prior to June 22, 1957. x x x

"Mr. President, the bill contains a qualification limiting the retirement to those who retired on or before December 31, 1965. It is the purpose of the Committee to eliminate this particular deadline date because if we do not eliminate this deadline date, we will in the future have another bill presented to extend the same

privileges to those who re-tired after December 31, 1965. And therefore, it is the pur-*pose* of the Committee when the period of amendment comes, to simply change this particular section to say 'with effective date of retirement on or after June twenty second, Nineteen Hundred and Fifty Seven' because that was the original dead-line date by Republic Act No. 3462. x x x

"But apart from that, Mr. President, the point of view of the Committee is that when you have rendered equal service, you should be given equal retirement benefits. And that is precisely why, as I said, when we come to the period of amendments, the Committee's purpose is to eliminate the deadline date and to allow those who retired and who have obtained a lump-sum retirement and outlived it, to convert it into monthly. After all, the government is prepared or was prepared to give them a monthly annuity. They have received the lump sum but they have outlived it. Why should we deny them the monthly payment afterwards. x x x

"Senator DIOKNO. It is the intention of the com-*mittee* subject of course to the approval of the House, to submit an amendment to eliminate the clause 'sixty-five' and leave this open so that there will be no further amenda-*tory* measure. x x x

"Senator DIOKNO. That was the intention of the committee during the period of amendments to eliminate this sixty-five because, as I said in the course of my spon-*sorship* speech, if we leave this at sixty-five while we have no assurance in all probability, say five years from now, someone will come along and ask that it be extended again to 1970." (Congressional Record, Vol II, No. 59, pp. 1887--1901, emphasis furnished).

I therefore vote for the affirmance of the appealed judgment holding that the privilege of conversion may be availed of uniformly by any quali-*fied* member of the Armed Forces of the Philippines who retired after June 22, 1957 without any deadline or limiting date, since there is nothing in Republic Act 4902 that would warrant imposing its date of effectivity on June 17, 1967 as such deadline or limiting date.

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