

EDUARDO QUINTOS, JR., PLAINTIFF-APPELLANT, VS. NATIONAL STUD FARM; BOARD OF TRUSTEES, NATIONAL STUD FARM; PHILIPPINE RACING CLUB, INC.: AND BOARD OF STEWARDS, PHILIPPINE RACING...*G.R. No. L-37052. November 29, 1973*

Ponente: FERNANDO, J.

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In this case certified to us by a resolution of the Court of Appeals[1] on the ground that the appeal from an order of dismissal by the lower court "is beyond [its] competent jurisdiction * * * considering that, as correctly pointed out by defendants-appellees National Stud Farm and its Board of Trustees in their comment * * * 'what is involved here is a pure legal question', and that is whether or not the lower court erred in dismissing appellant's complaint for failure to exhaust administrative remedies." [2] Such a principle is, of course, of compelling force in this juris-diction. [3] But there are exceptions, one of them being the invocation of the due process clause which is precisely the basis for the judicial review sought by plaintiff before the lower court. While his stand was put forth with vigor and plausibility in the memorandum of his counsel, [4] still the point-by-point refutation of his arguments by Solicitor-General Estelito P. Mendoza [5] and deference to controlling principles of administrative law in terms of primary jurisdiction and ripeness of review call for the affirmance of the appealed judgment. So we rule.

The basis for the complaint by plaintiff, now appellant, Eduardo Quintos, Jr., before the lower court [6] was set forth therein thus: "2. That Plaintiff is the legitimate owner of a race horse named 'King's Toss' which was duly and officially registered on February 17, 1970 with defendant National Stud Farm and for which certificate of Registration No. 002426 was issued by said defendant for said race horse, thereby acknowledging and recognizing it to participate in horse races and sweepstakes draws that were held and are being held in legally authorized racing clubs or tracks * * *; 3. That the race horse 'King's Toss' by virtue of its official registration as such, has since participated or taken part in horse races and sweepstakes draws starting with its debut on March 15, 1970 up to June 11, 1972; 4. That in line with the standard operating procedure and usual racing practices for horse owners to apply for and submit the names of race horses for inclusion in a particular race at least three days, the plaintiff on June 13, 1972 applied for and submitted the name of his race horse 'King's Toss' to the defendant Philippine Racing Club, Inc., so that said horse could participate in the races to be held at the racing tracks of said defendant Philippine Racing Club, Inc., at Makati, Rizal, for either the races programmed for June 17, or 18, 1972, which application was duly accepted [and] approved by said defendant, consequent to which race horse 'King's Toss' was declared eligible to participate [and] take part in the actual race that was conducted on June 17, 1972, more particularly in Race No. 15 thereof, resulting in the inclusion of said race horse in the racing list or program 'Lucky Choice' for the scheduled race on June 17, 1972 * * *; 5. That on June 17, 1972, the very day when plaintiff's race horse 'King's Toss' was scheduled to participate in race No. 15 at the racing tracks of defendant Philippine Racing Club, Inc., an announcement was made through the public address system before the

start of Race 13 that plaintiff's race horse 'King's Toss' is being scratched or excluded from taking part in Race 15 where it is supposed to run that racing day * * *." [7]

It was then alleged that such withdrawal or cancellation of the certificate of registration of plaintiff's race horse was arbitrary and oppressive, due process being denied him in the absence of a formal investigation or inquiry prior there-to. [8] Such actuation was characterized by plaintiff as not only amounting to defendant National Stud Farm and its Board of Trustees gravely abusing its discretion, but also exceeding "its legitimate function and authority [thus resulting in] lack of jurisdiction, * * *." [9] There was an answer filed on behalf of the aforesaid defendants by the Solicitor General wherein the special defenses of immunity from suit as well as the lack of cause of action and the failure to exhaust administrative remedies were interposed. As noted at the outset, the lower court, in its order of October 9, 1972, dismissed the complaint primarily on the ground of lack of exhaustion of administrative remedies. Thus: "The Court is convinced that Quintos' instant complaint was prematurely instituted. His administrative remedy is to ask the Board of Trustees of National Stud Farm to reconsider its resolution cancelling the certificate of registration of 'King's Toss' and, in case the reconsideration is denied, to appeal to the Games and Amusements Board or to the Office of the President of the Philippines." [10]

As noted at the outset, the order of dismissal based on nonexhaustion of administrative remedies is invulnerable to attack. We therefore affirm.

- Plaintiff is not unaware of the impress of authoritativeness affixed to the basic principle of administrative remedies having to be fully utilized before resort to courts is allowable. Nonetheless, he would seek to avoid its operation in the case at hand by the invocation of the alleged denial of due process. It is to be admitted that under certain circumstances, such a plea would not go unheeded because of the inadequacy of the remedy that could be supplied administratively. Before its invocation, however, is to be accorded a degree of plausibility, it must first be ascertained whether from the standpoint of what still could be done by the higher authorities in the Executive branch, plaintiff would really have a valid cause for complaint. The Solicitor General, in his comment, certainly disputed such a claim. He would point out a grave inaccuracy in the allegation that there was lack of notice of the investigation conducted by defendant National Stud Farm, there being two letters requiring him to answer the complaint of a certain Mr. Elwick, Jr. sent to him, one by regular mail on December 18, 1970 and the other by registered mail on February 5, 1971. With the presumption that the sending thereof ordinarily is followed by their receipt, the assertion, as he pointed out, was far from persuasive. [11] Plaintiff, moreover, did know of the cancellation of the registration papers of his race horse on June 17, 1970, but he never moved for a reconsideration thereof prior to his going to court on June 21 of that year. [12] Even without according due weight to the allegation that protection of public interest did require such cancellation, a step that can be taken without a hearing, the additional argument offered in such comment as to the exhaustion of administrative remedies not being procedurally impossible does commend itself for approval. Thus: "Appellant's allegation that he could not have appealed to the Executive Secretary at the time he filed his complaint in the lower court on June 21, 1972 is also inaccurate. There is no question that on June 17, 1972, appellant already had knowledge of the revocation of the certificate of registration of his race horse. This is admitted in paragraph 5 of the Complaint of appellant, * * *. Despite this knowledge on June 17, 1972, appellant did not appeal the resolution in question to the Executive Secretary. Instead, he prematurely instituted a suit in court for damages. The reason for this shortcircuiting of administrative processes is not explained by appellant. He gives no reason for his failure to exhaust administrative remedies. Indeed, there is none." [13] The order of dismissal, therefore, certainly cannot be considered as being in derogation of the due process guarantee.

- What further lends support to the decision now on appeal is that the failure to apply such a basic concept as exhaustion of administrative remedies would be attended with consequences adverse to such equally well-settled postulates in administrative law of primary jurisdiction and ripeness of review. It is true that the doctrine of primary jurisdiction [14] or prior resort [15] goes no further than to determine whether it is the court

or the agency that should make the initial decision.[16] Parker, in his text, would put the matter thus: "The fact that a governmental authority is empowered to deal with a given type of matter gives rise to a presumption that it has exclusive jurisdiction over the matter. If the law delegates A to make decisions this means that in dubio B is not so delegated." [17] Davis clarifies the point in this wise: "The precise function of the doctrine of primary jurisdiction is to guide a court in determining whether the court should refrain from exercising its jurisdiction until after an administrative agency has determined some question or some aspect of some question arising in the proceeding before the court." [18] The important thing is that the dispute be determined according to the judgment, in the language of an American Supreme Court decision, "of a tribunal appointed by law and informed by experience." [19] In this particular case, as pointed out by the Solicitor General even prior to the Executive Secretary, the question could have been resolved in a manner satisfactory to the parties if the Games and Amusements Board which certainly had the necessary qualifications to view its manifold aspects were appealed to. When, therefore, as was likewise adverted to by the Solicitor General, the judicial forum was sought by plaintiff, there was in effect an unwarranted disregard of the concept of primary jurisdiction. In the traditional language of administrative law, the stage of ripeness for judicial review had not been reached. [20] As so well-put by another authoritative treatise writer, Jaffe, that would be to ignore factors not predetermined "by formula but by seasoned balancing [thereof] for and against the assumption of jurisdiction." [21] All that had been said so far would seem to indicate that under such a test, the lower court's insistence on the observance of the fundamental requirement of exhausting administrative remedies is more than justified.

WHEREFORE, the order of dismissal of the lower court of October 9, 1972 is affirmed. With costs against plaintiff-appellant.

Zaldivar, (Chairman), Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

[1] Resolution of the Court of Appeals in CA-52282-R by a division headed by Justice Hermogenes Concepcion, Jr., with Justices Ramon C. Fernandez and Emilio A. Gancayco as members. It was dated May 16, 1973.

[2] Ibid, 4.

[3] Cf. The Secretary of Agriculture and Natural Resources v. De los Angeles, G.R. No. L-30215, February 29, 1972, 43 SCRA 494, citing 43 other cases.

[4] Attorney F. Reyes Cabigao.

[5] He was assisted by Assistant Solicitor General Jaime M. Lantin and Solicitor Reynato S. Puno.

[6] Civil Case No. 87436 of the Court of First Instance of Manila.

[7] Petition, pars. 2-5.

[8] Ibid, par. 7.

[9] Ibid, par. 9.

[10] Order of the lower court, Record on Appeal, 150.

[11] Comment of Solicitor General Estelito P. Mendoza, 2 and 3.

[12] Ibid.

[13] Ibid, 6-7.

[14] Cf. Public Utilities Commission v. United States, 355 US 534 (1958); United States v. Western Pac. R. Co.,

352 US 59 (1956).

[15] Cf. Stason, Cases and Other Materials on Administrative Tribunals, First Ed. 541 (1937).

[16] Cf. 3 Davis on Administrative Law Treatise, 12 (1958).

[17] Parker on Administrative Law, 114 (1952).

[18] Davis, op. cit., 3.

[19] Cf. Radio Corp. of America v. United States, 341 US 412 (1951).

[20] Cf. Phil. Air Lines, Inc. v. Civil Aeronautics Board, G.R. No. L-24321, July 21, 1967, 20 SCRA 727.

[21] Jaffe, Judicial Control of Administrative Action, 396 (1965).

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