

**IN THE MATTER OF THE VOLUNTARY INSOLVENCY OF THE
COMMERCIAL AIRLINES, INC.; ALFREDO M. VELAYO, ASSIGNEE AND
APPELLANT, VS. REPUBLIC OF THE PHILIPPINES,
CLAIMANT-CREDITOR AND APP...**

G.R.No. L-7915. July 30, 1955

Ponente: REYES, A., J.

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REYES, A., J.:

For unpaid charges for the use of Government airports and air navigation facilities by the Commercial Airlines, Inc., the Republic of the Philippines filed its proof of debt in the proceedings for the involuntary insolvency of said corporation, and the claim having been approved and declared preferred by the insolvency court, the assignee in insolvency brought the matter here on appeal, the amount involved being P153,756.63, minus assignee's counterclaim for P561.65, which was also approved by the court

Both amounts are not in dispute. The only question in this appeal is whether the claim enjoys preference under Section 50 (e) of the Insolvency Law as a debt due the National Government.

There appears to be no question, and in fact it is admitted, that the airports and air navigation facilities in question belong to the National Government. Such being the case, compensation for the use thereof, that is, their civil fruits, must also belong to the said Government. (Art. 354, old Civil Code, now Art. 441, New Civil Code.)

It is contended, however, that the debts owing from the insolvent corporation was due, not to the National Government, but to a distinct entity known as the National Airports Corporation, so that on the authority of *Government of the P.I. vs. China Banking Corporation et al.*, 54 Phil., 845, it cannot be considered a preferred claim under the cited provision of the Insolvency Law. We find no merit in this contention.

The establishment, operation, and maintenance of airfields and air navigation facilities have been undertaken by the Government as a governmental function since 1931 following the approval of Act No. 3909. Intrusted at first to the Division of Aeronautics in the Department of Commerce and Communications, the function was later turned over successively to the following agencies, to wit: (1) Bureau of Aeronautics, by virtue of Commonwealth Act No. 168; (2) Civil Aeronautics Administration, by virtue of Executive Order No. 94; (3) National Airports Corporation, by virtue of Republic Act No. 224; and (4) Civil Aeronautics Administration, again, by virtue of Executive Order No. 365, promulgated November 10, 1950. It would appear from the decision below and the agreed statement of facts that the Government's claim against the insolvent is split into three items as follows:

- (a) P68,715.00 for the period from September 2, 1947 to June 4, 1948 when the airports were under the administration of the Civil Aeronautics Administration;
- (b) P39,382.04 for the period from October 21, 1947 to June 4, 1943 when the airports were under the administration of the Administrator of the Civil Aeronautics Administration; and

(c) P45,658.59 when the airports were under the administration of the National Airports Corporation.

Now, with respect to items (a) and (b) covering debts incurred when the airports were under the administration of the Civil Aeronautics Administration and the Administrator of the Civil Aeronautics Administration, respectively, it cannot be seriously questioned that the civil fruits of those properties should belong to their owner, the National Government, and not to the agencies that had been set up to administer or manage them. As a matter of fact, Republic Act No. 125, approved June 14, 1947, which directs the collection of charges for the use of the Government's air navigation facilities, at the same time provides that those charges "shall accrue to the general fund of the national, provincial or municipal government financing said facilities." The fact that the charges were to be collected by, or made payable to the Civil Aeronautics Administration and the Administrator of Civil Aeronautics Administration and not to the National Government directly is immaterial since the former were mere instrumentalities of the latter. It is true that upon the approval of Republic Act No. 224 on June 5, 1948, all the assets of the Office of the Administrator of the Manila International Airport were transferred to the National Airports Corporation, a public corporation created by said Act. But as correctly held by the lower court, the transfer did not divest the debt owing from the insolvent to the Government of its character as a preferred claim under section 50 (e) of the Insolvency Law. (*Woodlife & Co. vs. Bush et al.*, 204 U. S. 186, 51 L. ed. 436, cited in *II Tolentino Code of Commerce*, 1952 ed., p. 590.)

With respect to item (c), which covers charges totalling P45,658.59 for the use of the government air navigation facilities during their administration by the National Airports Corporation, we find that this indebtedness stands essentially on the same footing as those in items (a) and (b). The airfields were still owned by the national government. And though their administration has been entrusted to a separate corporate entity known as the National Airports Corporation, we must not lose sight of the fact that the said corporation, which is managed and controlled by officers appointed by the President of the Philippines with the consent of the Commission on Appointments and which remains subject at all times to the control of the National Government, is nothing more than an instrumentality of government, created,— according to the very wording of its charter—"to serve as an agency of the Republic of the Philippines for the development, administration, operation, and management of government-owned landing fields in the Philippines." (Section 1, Republic Act 224.)

This view does not run counter to the ruling in *Government of the P.I. vs. China Banking Corporation*, *supra*. There the Government's claim was for a mortgage debt to the Postal Savings Bank, contracted in favor of the latter in its ordinary operation as a lender of money for purposes of profit. The claim could not, therefore, be considered as coming under section 50 (e) of the Insolvency Law, which, as interpreted in that case, has reference to "those that pertain to the Insular Government in its function as such Government, and not those relating to or contracted in favor of said Government by virtue of commercial transactions or private contracts." The debt involved in the present case pertains to the Government "in its function as such Government." For the establishment and maintenance of public airfields are a recognized function of a modern state, and to show that our Government did not mean to derive profit from the exercise of such function it has placed its airfields under the administration of the National Airports Corporation, an entity created not for profit but for a definite government purpose. (See Opinion No. 16, of the Secretary of Justice, 1950.) '

In view of the foregoing, the order appealed from is hereby affirmed, with costs against the assignee-appellant.

Bengzon, Acting C.J., Padilla, Montemayor, Jugo, Bautista Angela, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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