

TEOFILO C. RODRIGUEZ, PETITIONER VS. DEVELOPMENT BANK OF THE PHILIPPINES, RESPONDENT.

G.R. No. L-19771. February 27, 1964

Ponente: BARRERA, J.

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BARRERA, J.:

From the decision of the Court of First Instance of Davao, dismissing his complaint (Civil Case No. 3422 - for mandamus) against respondent Development Bank of the Philippines, to compel the latter to accept his backpay certificate in payment of his obligations to it, petitioner Teofilo C Rodriguez, interposed this appeal. The case was submitted for decision of the trial court on the following:

"STIPULATION OF FACTS

"1. That the agreement was entered into by and between Teofilo C. Rodriguez, now the petitioner herein and the then Rehabilitation Finance Corporation (RFC), now called the Development Bank of the Philippines, sometime in May, 1953, to the effect that said Rehabilitation Finance Corporation would loan to Teofilo C. Rodriguez the amount of P14,000.00, payable in installments;

"2. That said loan of P14,000.00 as stated in the preceding paragraph would be received by Teofilo C. Rodriguez in several releases;

"3. That pursuant to the agreement aforementioned, the first release availed of was the amount of P5,000.00, which was received by petitioner on or about May 27, 1953.

"4. That all subsequent releases covering the entire remaining amount of the loan was availed of and received by petitioner after June, 1953, pursuant to the conditions embodied in the agreement mentioned in paragraph 1 above, the pertinent provisions of which are quoted hereunder, to wit:

'ADDITIONAL CONDITIONS:

"(3) That the subsequent releases shall not be more than 60% of the value of the construction completed In excess of P6,000.00;

" (5) That a sufficient amount may be withheld until the building is completed and painted and found in accordance with plans and specifications submitted;

"(8) That the release of the loan shall be subject to the availability of funds;"

"5. That thereafter, payment in installments were made by petitioner and that petitioner as early as 1954 offered to pay his entire remaining obligation with his backpay, but respondent refused to accept the same but ultimately accepted payment thereof in the amount of only P5,000.00, thereby causing a remainder of about P5,000.00 at that time;

"6. That the respondent would not receive payment of releases made and availed of by the petitioner after June,

1953; and

"7. That the amount of petitioner's backpay can still more than cover the petitioner's existing obligation or balance." In addition thereto, the parties submitted memoranda, in support of their respective contentions. Thereafter (on June 14, 1961) and on the basis of said Stipulation of Facts and memoranda of the parties, the trial court rendered the decision above adverted to.

Dissatisfied, petitioner appealed to us "on question of law".

As stated by the trial court, the issue to be resolved in this case is "whether the releases made after June 20, 1953 should retroact as of May, 1953 when the contract was made and considered subsisting from May, 1953; or the subsequent releases should be considered subsisting as of the day the release was made," in order to come within the purview of the law authorizing payment, by backpay certificates, of "obligations subsisting at the time of the approval of the amendatory act on June 20, 1953".

It is appellant's contention that the entire obligation of P14,000.00 (and not only the P5,000.00 actually received by him in May, 1953) was already subsisting on June 20, 1953 when Republic Act No. 897 was approved, hence, appellee Bank must accept his backpay certificate in payment of the balance thereof which is P9,000.00, pursuant to Section 2 of said Act. Appellee Bank, for its part, argues that only the amount of P5,000.00 was subsisting as appellant's obligation to it when said Act was approved, the amount actually released to appellant pursuant to the loan agreement of May, 1963, and, hence, the sum of P9,000.00 released after the approval of Republic Act No. 897 on June 20, 1953 (it was actually released in July, 1963 and thereafter) is a subsisting obligation after said date and, consequently, not payable with appellant's backpay certificate.

We are inclined to sustain appellee Bank's argument. We agree with the trial court that-

"An analysis of the contract between the parties entered into in May, 1953, as gleaned from the stipulation of facts and the memoranda shows that the agreement between the parties is an executory contract. The plaintiff became bound and liable for such amount released and received by him on the date of the release and receipt by him. It is noted that for each release, the plaintiff is required to execute a promissory note. He became bound and liable for the amount released only on the date he received the amount released and signed the corresponding promissory note."

It can not be said that appellant became indebted to the Bank for the total amount of P14,000.00 from the date of the agreement. The releases of the balance of the agreed loan were made dependent on certain conditions (see additional conditions mentioned in paragraph 4 of the stipulation of facts, *supra*, among which is the availability of funds. Non-compliance with any of these conditions will not entitle the appellant to the release of the balance of the agreed loan and conversely, will not entitle the bank to hold the appellant liable for the unreleased amounts. Consequently, we hold as did the trial court, that:

"* * *, the amounts released in July, 1953 and thereafter cannot be considered as obligations subsisting in June, 1953. The defendant may be compelled to accept a backpay certificate in payment of obligations subsisting when the Amendatory Act was approved (Sec. 2, Rep. Act 897). Republic Act 897 was approved on June 20, 1953. The defendant may not be compelled to accept plaintiff's backpay certificate in payment of the amounts released after June 20, 1953."

The case of *Sabelino vs. RFC* (G. R. No. L-11790, Sept. 30, 1958) relied upon by appellant is irrelevant, as the mortgage indebtedness sought to be paid with appellee's backpay certificate therein, appears to have subsisted prior to the approval of Republic Act No. 897. The only question raised and thus decided in that case was whether, because of the nature of the funds used by Rehabilitation Finance Corporation which required an annual yield in excess of what the 39—year term backpay certificates would bring, the provisions of Republic Act 897

were applicable to it.

Wherefore, finding no reversible error in the decision appealed from, the same is hereby affirmed, with costs against the petitioner-appellant. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepción, Reyes, J. B. L., Paredes, Dizon, Regala and Makalintal, JJ., concur.

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