

MIGUEL YUVIENGCO, ETC., ET AL., PETITIONERS, VS. HON. PRIMITIVO GONZALES, ETC., ET AL., RESPONDENTS.*G.R. No. L-14619. May 25, 1960*

Ponente: PARAS, C.J.

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On November 13, 1956, one Geronimo V. Maluto, filed against the Province of Cavite and Vicente Francisco, as District Engineer of Cavite, a complaint for the recovery of P4,240.00, representing the unpaid balance of costs of the construction of two school projects, with legal interest at the rate of 6% from September 13, 1954 plus P1,500 as damages.

After "Answer" was filed and the issues joined, trial was held. Respondent court found that the evidence and the law supported the validity of the said plaintiff's claim and thus ordered the payment of the amounts prayed for. The said judgment became final and executory.

Previous to the filing of this action, on the alleged reason of lack of funds, the Province of Cavite had failed to meet the obligation alluded to in the judgment. On September 20, 1954, however, it adopted a resolution authorizing payment of the said obligation subject to the condition of availability of funds. On October 29, 1958, respondent court ordered the Provincial Treasurer of Cavite to deposit the money in the amount of P6,737.70 with the court with the warning that he shall be ordered arrested upon failure to comply with said order. Compliance with the aforesaid order was not made hence the said court on October 30, 1958 ordered the arrest of said Provincial Treasurer.

On November 3, 1958, respondent court issued another order upon the plaintiff's urgent motion for compliance showing that non-compliance, with the first order was caused by the Provincial Treasurer's alleged sickness and absence from office. The latter order commanded the Assistant Provincial Treasurer of Cavite to act in place of the Provincial Treasurer and deposit with the court the sum of P6,737.70. The said order also contained a warning that said officer would be held in contempt of court in case of non-compliance.

In the present petition, it is argued that the abovementioned orders are arbitrary and capricious; that the reasons why no payment or deposit therefor was made are: 1. lack of available funds; 2. such payment would make the petitioners commit a crime inasmuch as the law^[1] provides that no disbursement of funds should be made without any appropriation; 3. the petitioners (the Provincial Treasurer and the Assistant Provincial Treasurer) are not parties to the case (the proper party against whom execution should have been made being allegedly the Province of Cavite).

Against the argument of lack of funds, the records reveal that when respondent Judge, on August 15, 1958, appointed a commissioner to investigate the financial condition of the Provincial Government, the said Judge received a definite answer from the Assistant Provincial Treasurer that the Provincial Treasury had enough funds already appropriated and the claim in question could be paid from the current appropriation if the Auditor General would approve the said payment; that when the matter was referred to the Auditor General there was the response

that the said claim could be paid from the current appropriation of the province. (Please see Annexes "I", "II", "III", "IV", "V", "VI" and "X".)

Petitioners' contention that payment of the claim in question would violate Sec. 2089[2] of the Revised Administrative Code is completely unreasonable. The fact is that the Provincial Board, in compliance with the decision dated December 14, 1957, passed Resolution No. 42, on February 7, 1958; authorizing the Provincial Treasurer to pay the adjudicated claim from any funds available during the current fiscal year and in the absence of such funds, to charge it temporarily against A-8-5 (deferred charges). Funds denominated A-8-5 appear to be the current appropriation of the province. Knowing because they had always alleged in the hearing in the court below before the order of arrest of the Provincial Treasurer was issued on October 30, 1958, and before the order to deposit directed to the Assistant Provincial Treasurer was issued on November 3, 1958, that payment out of current appropriations need the approval of the Auditor General, petitioners did not take any step to get such approval (despite the Resolution of the Board to pay such claim). They sat on the Board Resolution. It was claimant who procured the Auditor General's approval on November 5, 1958. The claim furthermore is in pursuance of a court judgment or order that has found the claim valid and demandable.

It is illogical for petitioners to contend that the Provincial Treasurer and the Assistant Provincial Treasurer are not parties to the case. For, in a very real sense, indeed they are, because they are the legitimate custodians of the public funds of said province, the very officials in charge of the disbursement of all provincial funds.

Petitioners' willful disobedience and defiance to respondent court's order is irreverence of the courts dignity. In the maintenance of the respect due to it, respondent court was correct in the imposition of the orders of arrest.

In view of the foregoing, the orders under consideration are found proper. Costs are to be charged against the petitioners. So ordered.

Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.

[1] Sec 2089 of the Revised Administrative Code of the Phil.—Duties of the Provincial Treasurers and/or Assistant Provincial Treasurers.—"To have charge of the disbursement of all Provincial Funds and other funds the custody of which may be entrusted to him by law or other competent authority * * *.

[2] Ibid.

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