

JOSEPH A. STIVER, PETITIONER AND APPELLANT, VS. PACIANO DIZON, AUDITOR GENERAL, RESPONDENT AND APPELLEE.

G.R. No. L-361. May 27, 1946

Ponente: FERIA, J.

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FERIA, J.:

On or about September 28, 1945, the petitioner filed a sworn statement with the Director of Posts, requesting the issuance of a new or duplicate pass book for a deposit of not less than P5,500 which he claims to have made in the Postal Savings Bank, on the ground that his deposit book was destroyed by fire in his house during the battle for the liberation of Manila.

As the claim of Stiver is based simply on his own affidavit which can not be verified for the reason that practically all the records and books of accounts of the Postal Savings Bank were lost or destroyed by fire, the Secretary of Public Works and Communications referred the matter to the Auditor General for a ruling, and the latter, in his indorsement of November 29, 1945, to the Secretary of Public Works and Communications, said the following:

"Inasmuch as the correctness of the within claim of Mr. J. A. Stiver cannot be verified due to the loss of his deposit Book and the records and books of account of the Postal Savings Bank, this Office regrets that it cannot allow the issuance of a duplicate deposit book covering the deposit alleged herein by Mr. Stiver. As stated in the next preceding indorsement, 'Claims of this nature based merely on the affidavits of the claimants are no doubt dangerous and risky, as they might open the door to frauds which would result in the Bank being the victim of unscrupulous persons.' Unless the claimant can present satisfactory evidence showing that he really has a deposit in the Postal Savings Bank, it is believed that there is no other way of effecting settlement thereof."

The Bureau of Posts, to which the foregoing was transmitted by the Department of Public Works and Communications, wrote on March 5, 1946, the following letter to the claimant J. A. Stiver:

"With reference to your letter of September 28, 1945, reporting the loss of your Postal Savings Bank Deposit Book which you allege contained a balance of P5,500, plus interests thereon, and requesting that a duplicate be issued in lieu thereof, I regret to have to inform you that inasmuch as the Auditor General has disapproved the reconstruction of your account for the reasons that the record of such account in the Postal Savings Bank was one of those lost or destroyed as a result of war operations and the evidence submitted by you was not satisfactory, your request for a duplicate deposit book can not be complied with."

J. A. Stiver appealed from the stand taken by the Auditor General on the matter to this court, on the ground that the Auditor General erred in ruling that the Auditor's Office "can not allow the issuance of a duplicate deposit book covering the deposit alleged herein by Mr. Stiver," and in "not ordering the Manager of the Postal Savings Bank to issue and deliver to J. A. Stiver a new pass book showing a balance due from the Postal Savings Bank to said J. A. Stiver of not less than P5,500 as of December 31, 1941 * * *".

The Solicitor General, in behalf of the Auditor General, filed a motion to dismiss the appeal, on the ground that the present case has been improperly brought to this court, because according to Commonwealth Act No. 327 and Rule 45 of the Rules of Court, " 'in case involving settlement of accounts or claims,' an appeal would lie to the Supreme Court from the decision of the Auditor General, and obviously the instant case does not fall under this category, because the petitioner is only asking for the issuance of a duplicate pass book for his alleged deposit in the Postal Savings Bank, and this was denied by the Director of Posts, upon whom devolves the duty of issuing duplicate deposit book in case it has been lost, stolen or destroyed (section 2003 of the Revised Administrative Code)."

After a careful consideration of this case, we have come to the conclusion that the Auditor General had no authority to decide or pass upon the claim of the appellant, and therefore the present case was improperly brought on appeal to this court. Although the latter was asking for the issuance of a new or duplicate deposit book under section 2003 of the Revised Administrative Code, under the circumstances of this case, he is in fact filing a claim of money, the amount of his alleged deposit, against the Postal Savings Bank. The issuance of a duplicate deposit book under section 2003 of the Revised Administrative Code is predicated upon the assumption that from the records and books of accounts of the Postal Savings Bank it appears that the claimant has such a deposit. But, in the present case, as the records and books of account of the Postal Savings Bank were also destroyed by fire, and there is no evidence, except the affidavit of the claimant, showing that the latter has such a deposit in the bank, the latter's claim is in effect a claim of money against the Postal Savings Bank, since, for the latter to accept the former's claim and issue a duplicate deposit book, would be to admit an indebtedness due from the bank to the said claimant, which the bank is bound to pay in due time.

Under Commonwealth Act No. 327, the only claims which may be submitted or presented by private persons to the Auditor General for decision, are claims of money against the Government of the Philippines. Because section 2 of said Act provides that the party or claimant aggrieved by the final decision of the Auditor General may appeal from said decision to the Supreme Court of the Philippine Islands, and that if the decision of the Auditor General affects adversely the interest of the Government, the appeal may be taken by the proper head of the department, or in case of local governments by the head of the office or branch of the Government immediately concerned. And the reason for allowing private individuals to file claims of money against the Government of the Philippines with the Auditor General for the latter's decision is, that they can not institute a suit in the Courts of Justice claiming money against the Government without the latter's consent through legislative enactment.

The claimant's claim involving an amount of not less than P5,500 which he alleges to have deposited in the Postal Savings Bank, is not a claim against the Government but a claim against the Postal Savings Bank, which is a juridical entity that has a personality of its own, because the funds of the Postal Savings Bank do not belong to the Government.

In the case of *Government of the Philippine Islands vs. China Banking Corporation* (54 Phil., 845, 847), in which the Attorney General contended that a claim of the Postal Savings Bank against Mariano Velasco & Co. for the balance of a mortgage credit is a preferred credit under section 50, paragraph (c), of the Insolvency Law, on the ground that said claim is an indebtedness to the Insular Government, this court held the following:

"From this it follows that the funds of the Postal Savings Bank cannot be termed Insular Government funds, and debts contracted in favor of said bank in its ordinary operation as provided by law-are not to be held debts in favor of the Insular Government. When the Postal Savings Bank grants a loan, it does not do so in the name and on behalf of the Insular Government, but in its own name and behalf and for its own benefit, as may be implied from the law on the matter. In such a loan, therefore, the Insular Government is not the lender or the creditor; and hence, the debt is contracted not in its favor but in favor of the Postal Savings Bank, which has a personality of its own.

"The appellant, then, cannot invoke section 50, paragraph (c), of the Insolvency Law."

The creation by Commonwealth Act No. 7, as amended by Commonwealth Act No. 109 and Commonwealth Act No. 391, of the National Loan and Investment Board which was granted by said Acts the power and duty to invest, among others, the Postal Savings Bank funds, and the transfer of the powers and duties of the said National Investment Board to the Agricultural and Industrial Bank by section 10 of the Commonwealth Act No. 459, which created said Agricultural and Industrial Bank and abolished the National Loan and Investment Board, have not affected or changed the nature of the Postal Savings Bank as a juridical entity with personality of its own. Under the provisions of sections 1987 to 2028 of the Administrative Code as amended, the Postal Savings Bank continues up to the present its operation of receiving the savings of the people as deposits, which may be withdrawn in conformity with those provisions, and said bank may sue and be sued in its own name as a juridical entity. Only the power of the Postal Savings Bank to invest those deposits or funds under the provisions of sections 2029 to 2038 of said Revised Administrative Code, as amended, was transferred first to the National Investment Board and now to the Agricultural and Industrial Bank, which may be considered as a trustee of the Postal Savings Bank funds, authorized to enter into contracts and to sue and be sued in its name (section 3, Commonwealth Act No. 459).

In view of the foregoing, the claimant's appeal is dis-missed, without prejudice to his right to file suit against the Postal Savings Bank, to compel the latter to issue a duplicate deposit book or, which is the same, to admit that the claimant has a deposit of not less than P5,500, with, interest, in said bank; without costs. So ordered.

Moran, C. J., Ozaeta, Paras, Jaranilla, De Joya, Pablo, Perfecto, Hilado, Bengzon, and Briones, JJ., concur.

Petition dismissed.

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