

PEDRO P. TAMAYO, ET AL., PLAINTIFFS AND APPELLANTS, VS. MANILA HOTEL COMPANY, DEFENDANT AND APPELLEE.

G. R. No. L-8975. June 29, 1957

Ponente: REYES, A., J.

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REYES, A., J.:

Two hundred sixty-five (265) employees of the Manila Hotel Co., who had to be dismissed and paid the value of their accumulated leave under section 286 of the Administrative Code, as amended by Republic Act No. 611, when the hotel was leased to a private concern on June 30, 1954 brought the present action to recover from the company an additional amount for accrued leave alleged to be due them under the same section of the Administrative Code, as later amended by Republic Act No. 1081, approved on June 15, 1954, that is to say, fifteen days before they were separated from the service.

On defendant's motion, the lower court ordered the complaint dismissed on the ground that it did not state a cause of action in that Republic Act No. 1081 did not have a retroactive effect. From that order plaintiffs appealed directly to this Court, the total amount claimed being more than P50.000.

We find the appeal to be without merit.

As already stated, plaintiffs have already been paid the value of their accrued leave under section 28S of the Revised Administrative Code, as amended by Republic Act No. 611, which reads;

"Sec. 286. When vacation leave and sick leave may be taken.— Vacation leave and sick leave shall be cumulative and any part thereof which may not be taken within the calendar year in which earned may "be carried over to the succeeding years, but whenever any officer, employee, or laborer of the Government of the Philippines shall voluntarily resign, or be separated from the service through no fault of his own, he shall be entitled to the commutation of all accumulated vacation and/or sick leave to his credit: Provided, That the total vacation leave and sick leave that can accumulate to the credit of any officer or employee shall, in no case, exceed five: months: Provided, further, That the proper Department Head may in his discretion authorize the commutation of the salary that "would be received during the period of vacation and sick leave of any appointed officer or employee or teacher or laborer of the Philippine Government and direct its payment on or before the beginning of such leave from the fund out of which the salary would have been paid: Provided, furthermore, That no person whose leave has been commuted following his separation from the service shall be reappointed or reemployed under the Government of the Philippines before the expiration of the leave commuted unless he first refunds the money value of the unexpired portion of the leave commuted." (Italics supplied.)

Plaintiffs, however, claim that they were entitled to ten months' accrued leave because the aforementioned section of the Administrative Code was, several days before their dismissal, amended by Republic Act No. 1081, to read as follows:

"SEC. 286. When vacation leave and sick leave may be taken.— Vacation, leave and sick leave shall be cumulative

and any part thereof which may not be taken within the calendar year in which earned may be carried over to the succeeding years, but "whenever any officer, employee, or laborer of the Government of the Philippines shall voluntarily resign or be separated from the service through no fault of his own, he shall be entitled to the commutation of all accumulated vacation and/or sick leave to his credit: Provided, That the total vacation leave and sick leave that can accumulate to the credit of any officers or employee shall, in no case, exceed ten months: Provided, further, That the proper Department Head may in his discretion authorize the commutation of the salary that "would have been received during the period of vacation and sick leave of any appointed officer or employee or teacher or laborer of the Philippine Government and direct its payment on or before the beginning of such leave from, the fund out of which the salary would have been paid: Provided, furthermore, That no person whose leave has been commuted following his separation from the service shall be reappointed or reemployed under the Government of the Philippines before the expiration of the leave commuted unless he first refunds the money value of the unexpired portion of the leave commuted," (Italics supplied.)

The question to determine is whether this latter amendment applies retroactively to employees whose length of service prior to its approval would give them, an accumulated leave in excess of five months, the limit fixed by law" before the last amendment.

Article 4 of the new Civil Code provides that laws shall have no retroactive effect unless the contrary is provided. As Republic Act No. 1081 does not provide that it is to have retroactive effect, it can only be given effect from the date of its approval.

As a matter of fact, this is the construction that has been placed upon that Act by the department of the Government charged with its enforcement. Thus, when the Commissioner of Civil Service, on August 10, 1954, passed upon the claim of the present plaintiffs against the Manila Hotel management, he ruled that "the accumulation of the additional five months total vacation and sick leave (to the original five months allowed under Republic Act No. 611) should begin only from June 15, 1954."

Confirmatory of that ruling is the opinion rendered by the Secretary of Justice, Hon. Pedro Tuason, at the request of the Executive Secretary, which reads:

November 27, 1954

THE EXECUTIVE SECRETARY

Malacañang, Manila

Sir:

This is with reference to your request for opinion on whether or not Republic Act No. 1081, which, has increased the maximum accumulable leave of a government officer or employee from 5 months to 10 months, applies retroactively to those whose length of service prior to its approval would have entitled them to an accumulated leave in excess of five months.

Prior to the enactment of Republic Act No. 1081, section 286 of the Revised Administrative Code provides as follows:

(Sec. 286. When vacation leave and sick leave may be taken.— Vacation leave and sick leave shall be cumulative and any part thereof which may not be taken within the calendar year in which earned may be carried over to the succeeding years, but whenever any officer, employee, or laborer of the Government of the Philippines shall voluntarily resign or be separated from the service through no fault of his own, he shall be entitled to the commutation of all accumulated vacation and/or sick leave to his credit: Provided, That the total vacation leave and sick leave that can accumulate to the credit of any officers or employee shall, in no case, exceed five months. * * *.' (As amended by Rep. Act No. 611.)

We are informed that the Bureau of Civil Service had construed and enforced the above-quoted provision in the sense that after an officer or employee had accumulated more than five months' vacation and sick leave, any leave accruing during the calendar year but not- taken within that year was automatically forfeited.

The Congress is deemed to have been aware of this long-continued, contemporaneous and practical interpretation of the statute by the administrative officer charged with its administration and enforcement, when Republic Act. No. 1081 was enacted, and to have sanctioned that interpretation as the legislative intent. The result then is that upon the approval of the amendatory law, no leave already earned in excess of the five-month maximum stood to the credit of any officer or employee. Totally and absolutely lost and legally non-existent, such excess could only be validated or restored by an express or clear declaration by the law-maker. There is nothing in Republic Act No. 1081 from which an intention of this sort can be gathered.

I am, therefore, constrained to answer the query in the negative.

Respectfully,

(Sgd.) PEDRO TUASON

Secretary of Justice"

It is a rule of statutory construction that "courts will and should respect the contemporaneous construction placed upon a statute by the executive officers, whose duty it is to enforce it and unless such interpretation is clearly erroneous will ordinarily be controlled thereby." (Molina vs. Rafferty, 37 Phil. 545; see also In re Allen, 2 Phil. 630, Everett vs. Bautista, 69 Phil. 137.)

But it is not only the executive branch of the Government that has construed Republic Act No. 1081 as having only a prospective effect. For Congress itself so construed that Act when in 1955 it approved a bill (House Bill No. 3097) to give the Act retroactive effect, for the reason— so it was explained—that though its proponent had intended it to have a retroactive effect, it "has (in fact) prospective effect" in the sense that "leave earned but not enjoyed prior to its approval was not counted." The bill, however, never became law because it was vetoed for lack of funds.

Plaintiffs-appellants invoke the ruling of this Court in the case of Manila Railroad Co. vs. CIR et al., G. R. No. L-4616, July 31, 1952, where the heirs of an employee of the Manila Railroad Company who died in 1945 were awarded the money equivalent of his unused vacation and sick leave although the law then in force provided for the forfeiture thereof upon the employee's separation from the service, for the reason, it is alleged, that Republic Act 611, effective only on May 5, 1951, which suppressed that part of the law relating to forfeiture, was applied. But a careful reading of the decision will show that the ruling was specifically based on a circular issued by the manager of the railroad company relative to the "grant of monetary aid to former employees and/or to the latter's dependents, who could not be reinstated on account of illness or death" and also on the "long-standing policy of the railroad company to pay vacation and sick leave duly acquired by its employees and laborers effective upon separation from the service." Such portion of the decision as mentions Republic Act No. 611 was mere dictum and cannot, therefore, be taken as the ratio decidendi of the case.

Lastly, plaintiffs-appellants cite article 1702 of the new Civil Code, which provides that in case of doubt, labor legislation shall be construed in favor of the laborer. As the article is expressly intended to apply in case of doubt, it can have no application where, as in the present case, no doubt exists.

In view of the foregoing, the order of dismissal is affirmed, with costs against the appellants.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L. and Felix, JJ.,

concur.

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