

QUIRICO DEL MAR, PETITIONER-APPELLEE, VS. THE PHILIPPINE VETERANS ADMINISTRATION, RESPONDENT-APPELLANT.

G.R. No. L-27299. June 27, 1973

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

On June 20, 1964, Quirico del Mar (hereinafter referred to as del Mar) filed with the Court of First Instance of Cebu a petition for mandamus (civil case R-8465) against the Philippine Veterans Administration (hereinafter referred to as the PVA), to compel the latter to continue paying him his monthly life pension of P50 from the date of its cancellation in March 1950 to June 20, 1957, and thereafter, or from June 22, 1957, his monthly life pension, as increased by Republic Act 1920,[1] of P100, and to pay him as well the monthly allowance of P10 for each of his unmarried minor children below eighteen years of age,[2] pursuant to the said Republic Act 1920 which took effect on June 22, 1957. Del Mar also asked for compensatory, moral and exemplary damages.

In his petition below, del Mar averred that he served during World War II as chief judge advocate of the Cebu Area Command (a duly recognized guerilla organization) with the rank of major; that he subsequently obtained an honorable discharge from the service on October 20, 1946 on a certificate of permanent total physical disability; that upon proper claim presented and after hearing and adjudication, the Philippine Veterans Board (the PVA's predecessor) granted him a monthly life pension of P50 effective January 28, 1947; that in March 1950, the said Board discontinued payment of his monthly life pension on the ground that his receipt of a similar pension from the United States Government, through the United States Veterans Administration, by reason of military service rendered in the United States Army in the Far East during World War II, precluded him from receiving any further monthly life pension from the Philippine Government; that he wrote the said Board twice, demanding that it continue paying his monthly life pension, impugning the cancellation thereof as illegal; and that his demands went unheeded.

The PVA reiterated its contention that del Mar's receipt of a similar pension from the United States Government effectively barred him from claiming and receiving from the Philippine Government the monthly life pension granted him as well as the monthly allowances he claimed for his five living unmarried minor children below eighteen years of age. The PVA also asserted that it is discretionary on its part to grant or discontinue the pension sought by del Mar. In addition, it alleged that the action of del Mar was premature because of his failure to exhaust administrative remedies before invoking judicial intervention, and that the court a quo was without jurisdiction to try the case as del Mar's demand partakes of a money claim against the PVA - a mere agency of the Philippine Government — and, in effect, of a suit against the Government which is not suable without its consent. The PVA thus prayed for the dismissal of the petition.

After due trial, the court a quo rendered judgment upholding del Mar's claims. In its decision dated February 27, 1965, the court (1) ordered the PVA to pay to del Mar his monthly life pension corresponding to the period from April 1950 to May 1957 at the rate of P50 a month, adding up to P4,334.86, and his monthly life pension corresponding to the period from June 22, 1957 to February 1965 at the rate of P100 a month totalling P9,200,

and thereafter to continue to pay his monthly life pension at the rate of P100 a month; (2) directed del Mar to file with the PVA the corresponding written application for the payment to him of the monthly living allowance of P10 for each of his five living unmarried minor children from June 22, 1957; and ordered the PVA to give due course to the written application as soon as del Mar shall have filed the same with it, and once approved, to make the necessary payment of the accumulated unpaid living allowances due to each of the said children from June 22, 1957 as well as the current ones until each one of them ceases to be entitled to the same; and (3) directed the PVA, in the event of unavailability of funds to pay the claims aforementioned, to set aside funds from such as are intended to pay the veterans' living pensions, or to cause the same to be appropriated in its budget in order to comply with the judgment. For lack of basis, the court a quo omitted to pass judgment on del Mar's claim for moral and exemplary damages.

Hence, the present appeal by the PVA.

The PVA alleges that the court a quo erred (1) in not holding itself without jurisdiction to try civil case R-8465; (2) in not finding as premature the petition for mandamus filed by del Mar due to the failure of the latter to exhaust available administrative remedies before seeking judicial intervention; (3) in declaring null and void Section 6 of PVA Regulation No. 2 relied upon by it in discontinuing the monthly life pension of del Mar since March 1950; (4) in not finding it discretionary on the part of the PVA to grant or discontinue the said pension; (5) in ordering it to pay to del Mar the amounts stated in the judgment; and (6) in ordering it to give due course to and approve the application which the said court directed del Mar to file for the payment to the latter of the monthly living allowance for each of his living unmarried minor children below eighteen years of age.

This appeal raises several questions which will be discussed in seriatim.

1. The PVA argues that the court a quo was without jurisdiction to try civil case R-8465 because it involves a money claim against the said PVA — a mere agency of the Government performing governmental functions with no juridical personality of its own — and, in reality, partakes of an action against the Philippine Government which is immune from suit without its consent, citing this Court's observation in *Republic of the Philippines vs. Ramolete and Del Mar*,^[3] to wit:

"... a charge against the Government where the money involved is part of the public funds, is a suit against the Government, and the happenstance that the action is directed against the PVA as an entity and not against the Republic of the Philippines is of no moment. Perforce, the Republic of the Philippines, on matters of administration of all benefits due to the veterans of revolutions and wars, and to their heirs and beneficiaries, acts and has to act through its agency and instrumentality, the PVA. The suit should therefore be regarded as one against the Republic of the Philippines; the PVA is therefore exempt from the filing of an appeal bond."

The PVA labors under a muddled and mistaken appreciation of the aforecited observation. This Court stated in precise language the sole issue for resolution in that case, thus:

"Is the PVA exempt from the filing of an appeal bond? To resolve this issue, we must initially determine whether the PVA is an agency or instrumentality of the Republic of the Philippines, and, in the affirmative, whether it exercises governmental functions."

Indeed, the decisive point in the aforementioned case related to the status of the PVA as an agency or instrumentality of the Republic of the Philippines exercising governmental functions as to be entitled to exemption from the filing of the appeal bond per Section 16 of Rule 141 of the Rules of Court, not to the nature of the claim sought to be enforced by the private respondent therein (del Mar) against the said PVA. Thus, in the said case, this Court made a lengthy disquisition on the history, development and organization of the PVA to show conclusively that the same is an entity or agency of the Republic of the Philippines performing governmental

functions. True, this Court referred to the claim of the private respondent therein as "a claim for a sum of money against the Government, which claim, if adjudged finally to be meritorious, would render the Republic of the Philippines liable therefor," since the funds from which the claim was to be satisfied were funds appropriated by Congress for the PVA; but this Court properly and advisedly omitted any study and consideration of the question of suability or non-suability of the Government in connection therewith.

As a general proposition, the rule - well-settled in this jurisdiction — on the immunity of the Government from suit without its consent holds true in all actions resulting in "adverse consequences on the public treasury, whether in the disbursements of funds or loss of property." [4] Needless to state, in such actions, which, in effect, constitute suits against the Government, the court has no option but to dismiss them. Nonetheless, the rule admits of an exception. It finds no application where a claimant institutes an action against a functionary who fails to comply with his statutory duty to release the amount claimed from the public funds already appropriated by statute for the benefit of the said claimant. [5] As clearly discernible from the circumstances, the case at bar falls under the exception.

2. The second question posed by the PVA relates to del Mar's alleged failure to exhaust administrative remedies before resorting to court action. Suffice it to state that where a case - as in the present controversy — involves a question solely of a legal nature, there arises no need for the litigant to resort to all administrative remedies available to him before seeking judicial relief. [6]

3. The validity of Section 6 of Regulation No. 2 of the "Rules and Regulations on Veterans' Benefits" adopted by the PVA constitutes the core of the present controversy. The said Section 6 reads as follows:

"SEC. 6. Effect of receipt of USVA pension benefit - termination, reduction. - An award of a similar disability compensation from the US Veterans Administration shall be a ground for the cancellation of a disability pension granted under this Regulation: Provided, however, That if and while the disability compensation awarded by the US Veterans Administration is less than the pension granted hereunder, the difference in amount shall be assumed and paid by the PVA: Provided, further, That upon proper application, the disability award previously cancelled may be restore upon the termination of the US Veterans Administration award if the cause of such termination is due to negative military service report of the pensioner certified by the US Department of the Army and not for any other valid cause; Provided, finally, That the veteran is medically determined to be still suffering from the disability for which he was previously awarded a pension. Payment of pension thus restored shall take effect or shall commence only from the date of approval of restoration and when funds become available."

Pursuant to the foregoing, the PVA cancelled and discontinued the monthly life pension of del Mar, reasoning that the latter's receipt of a similar pension from the United States Government precluded his enjoying any like benefit from the Philippine Government. The PVA avers that it adopted the aforequoted Section 6 in order to carry out and implement Section 9 of Republic Act 65, as amended, [7] particularly its excepting clause. Said Section 9 reads:

"SEC. 9. The persons mentioned in sections one and two hereof who are permanently incapacitated from work owing to sickness, disease or injuries sustained in line of duty, shall be given a life pension of one hundred pesos a month, and ten pesos a month for each of his unmarried minor children below eighteen years of age, unless they are actually receiving a similar pension from other Government funds, and shall receive, in addition, the necessary hospitalization and medical care." [8]

The PVA reads the phrase "from other Government funds" in the excepting clause of the aforecited provision as necessarily including funds of the United States Government. And without question, the pension del Mar receives from the United States Veterans Administration comes from the funds of the United States Government.

On the other hand, del Mar avers that Section 6 of Regulation No. 2 illegally effects the suspension of the operation of Section 9 of Republic Act 65, as amended, and argues that under Section 20[9] of Republic Act 65, as amended, the power to suspend the payment of the monthly life pension awarded to a disabled veteran belongs exclusively to the President of the Philippines, not to the PVA which, in the case at bar, illegally arrogated unto itself the said power. Furthermore, del Mar states, the PVA "deliberately misinterprets" the phrase "from other Government funds" in extending its scope to include United States Government funds.

The principle recognizing the necessity of vesting administrative authorities with the power to promulgate rules and regulations to implement a given statute and to effectuate its policies, provided such rules and regulations conform to the terms and standards prescribed by the statute as well as purport to carry into effect its general policies, constitutes a well-established doctrine in this jurisdiction.[10] In *Teoxon vs. Members of the Board of Administrators, Philippine Veterans Administration*, supra, this Court fittingly stated:

"... the Constitution limits the authority of the President, in whom all executive power resides, to take care that the laws be faithfully executed. No lesser administrative executive office or agency then can, contrary to the express language of the Constitution, assert for itself a more extensive prerogative. Necessarily, it is bound to observe the constitutional mandate. There must be strict compliance with the legislative enactment. Its terms must be followed. The statute requires adherence to, not departure from, its provisions. No deviation is allowable."

Section 11 of Republic Act 2665[11] empowers the PVA to adopt rules and regulations, thus:

"SEC. 11. Policies, rules and regulations. - Subject to existing laws, the Administration shall have the power to promulgate and issue rules and regulations as may be found necessary to govern its operations and to carry out the aims and purposes of this Act and of all other laws to be administered by the Administration."

Pursuant to this rule-making authority, the PVA - allegedly to implement Section 9 of Republic Act 65, as amended - promulgated its "Rules and Regulations on Veterans' Benefits," Section 6 of Regulation No. 2 of which cancels the disability pension granted if the beneficiary receives a similar compensation from the United States Veterans Administration. In effect, the PVA, by adopting Section 6 of Regulation No. 2, suspended the operation of Section 9 of Republic Act 65, as amended. This, Republic Act 65, as amended, forbids the PVA to do for it expressly authorizes only the President of the Philippines to suspend the operation of any of its provisions "if and when the Congress of the United States approves the pending GI Bill of Rights applicable to the Philippines the provisions of which are identical or similar to the provisions of this Act." Clearly then, Section 6 of Regulation No. 2 not only negates the very spirit behind Section 9 of Republic Act 65, as amended, but also contravenes the express mandate of Section 20 thereof.

The PVA's pretense that del Mar's case falls under the clause of Section 9 of Republic Act 65, as amended, which excepts those who "are actually receiving a similar pension from other Government funds" from the coverage of said Section 9 — predicated upon its interpretation that the phrase "other Government funds" included funds of the United States Government — fails to persuade this Court as a valid argument to justify its cancellation of del Mar's monthly life pension. Section 9 of Republic Act 65, as amended, in providing for the excepting clause, obviously intends to prevent the receipt by the same beneficiary of concurrent or multiple pensions or benefits similar to each other in nature and basis, although coursed through different departments or agencies, but paid out of the funds of the same Government. Any contrary interpretation resulting in the derogation of the interests of the beneficiary who likewise receives a similar pension paid out of funds of other Governments, conflicts with the established axiom ordaining the construction of pension laws of war veterans in favor of those seeking their benefits.

The record of the case at bar being completely bereft of any indication to show the suspension by the President of

the Philippines - pursuant to Section 20 of Republic Act 65, as amended - of the operation of any of the provisions of the said statute, this Court perforce must uphold del Mar's claims.

4. The rest of the assigned errors relate to the alleged undue interference by the court a quo with the purely discretionary functions of the PVA in the matter of granting or discontinuing the pension benefits.

The law concedes to administrative bodies - like the PVA - the authority to act on and decide claims and applications in accordance with their judgment, in the exercise of their adjudicatory capacity. Because of their acquired expertise in specific matters within the purview of their respective jurisdictions, the findings of these administrative bodies merit not only great weight but also respect and finality. "There is a limit, however, to such a deference paid to the actuations of such bodies. Clearly, where there has been a failure to interpret and apply the statutory provisions in question, judicial power should assert itself. Under the theory of separation of powers, it is to the judiciary, and to the judiciary alone, that the final say on questions of law in appropriate cases coming before it is vested."^[12]

All told, no roadblock stands in the way of del Mar's demand for the continuance of his monthly life pension.

In view, however, of the further amendment by Congress of Section 9 of Republic Act 65, as amended, through Republic Act 5753 - the provisions of which took effect on June 21, 1969 - there arises the need to modify the judgment a quo in order to make it conform to the said statute as it now stands. Republic Act 5753, in further amending Section 9 of Republic Act 65, as amended, grants every totally disabled veteran of World War II "a life pension of two hundred pesos a month, and thirty pesos a month for his wife and each of his unmarried minor children below eighteen years of age."

ACCORDINGLY, this Court adjudges the appellee Quirico del Mar entitled to his life pension (1) at the rate of P50 a month effective as of April 1950 to May 1957, per Republic Act 65; (2) at the rate of P100 a month effective as of June 22, 1957 to May 1969, per Republic Act 65 as amended by Republic Act 1920; and (3) at the rate of P200 a month effective as of June 21, 1969, per Republic Act 65 as further amended by Republic Act 5753. This Court directs the appellant Philippine Veterans Administration to compute and then to pay to the appellee del Mar his past and accumulated monthly life pension at the aforementioned statutory rates.

Regarding the monthly living allowance the appellee del Mar asks for each of his five "living unmarried minor children below eighteen years of age," it appearing that he has not filed any proper application therefor with the appellant PVA but simply included them in his claim for the restoration of his discontinued monthly life pension, the appellee del Mar, may, if he so desires, comply with Section 15 of Republic Act 65, as amended, which requires that "[A]ny person who desires to take advantage of the rights and privileges provided for in this Act should file his application" with the Philippine Veterans Administration, and the latter is hereby ordered to consider and pass upon the merits of such application, if filed, with particular reference to the entitlement qualifications of the intended beneficiaries. No pronouncement as to costs.

Makalintal, Acting C.J., Zaldivar, Fernando, Teehankee, Barredo, and Esguerra, JJ., concur.
Makasiar and Antonio, JJ., did not take part.

[1] AN ACT AMENDING SECTION NINE OF REPUBLIC ACT NUMBERED SIXTY-FIVE BY INCREASING FROM FIFTY TO ONE HUNDRED PESOS A MONTH THE LIFE PENSION OF PERMANENTLY INCAPACITATED PHILIPPINE VETERANS.

[2] Lydia (born on January 26, 1942), Quirico, Jr. (born on February 10, 1945), Rolando (born on December 5, 1948), Carmencita (born on July 25, 1950), and Lourdes (born on September 4, 1953).

[3] L-24673, August 12, 1966, 16 SCRA 923.

[4] Begosa vs. Chairman, Philippine Veterans Administration, 32 SCRA 466.

[5] Begosa vs. Chairman, Philippine Veterans Administration, *ibid.*; Teoxon vs. Members of the Board of Administrators, Philippine Veterans Administration, 33 SCRA 585.

[6] Begosa vs. Chairman, Philippine Veterans Administration, *ibid.*; Teoxon vs. Members of the Board of Administrators, Philippine Veterans Administration, *Ibid.*

[7] Amendments were introduced by Republic Act 1362, approved on June 18, 1955; Republic Act 1920, approved on June 22, 1957; Republic Act 5753, approved on June 21, 1969.

[8] Prior to its amendment by Republic Act 5753 (AN ACT FURTHER AMENDING REPUBLIC ACT NUMBERED SIXTY-FIVE, AS AMENDED, BY INCREASING THE PENSION OF TOTALLY DISABLED VETERANS OF WORLD WAR II AND THEIR LIVING DEFENDENTS)

[9] "SEC. 20. This Act shall take effect upon its approval: Provided, That the President of the Philippines is hereby authorized to suspend the operation of any provision of this Act if and when the Congress of the United States approves the pending GI Bill of Rights applicable to the Philippines the provisions of which are identical or similar to the provisions of this Act."

[10] People vs. Exconde, 101 Phil. 1125; Geukeko vs. Araneta, 102 Phil. 706; Teoxon vs. Members of the Board of Administrators, Philippine Veterans Administration, *supra*.

[11] AN ACT TO CONSOLIDATE INTO ONE OFFICE TO BE KNOWN AS THE "PHILIPPINE VETERANS ADMINISTRATION" THE BOARD ON PENSIONS FOR VETERANS CREATED BY COMMONWEALTH ACT SIX HUNDRED AND FIVE, THE PHILIPPINE VETERANS BOARD CREATED BY REPUBLIC ACT NUMBERED SIXTY-FIVE, THE CLAIMS OFFICE CREATED BY VIRTUE OF REPUBLIC ACT NUMBERED ONE HUNDRED THIRTY-SIX, THE VETERANS BACK PAY COMMISSION CREATED BY REPUBLIC ACT NUMBERED EIGHT HUNDRED NINETY-SEVEN AND THE VETERANS CLAIMS COMMISSION CREATED BY REPUBLIC ACT NUMBERED EIGHTEEN HUNDRED EIGHTY-NINE, AMENDING THEREBY THE LAWS CITED, AND FOR OTHER PURPOSES.

[12] Begosa vs. Chairman, Philippine Veterans Administration, *supra*.

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