

HON. ERNESTO S. MATA, AS ACTING SECRETARY OF NATIONAL DEFENSE; GENERAL MANUEL T. YAN, AS CHIEF OF STAFF, ARMED FORCES OF THE PHILIPPINES; COL. GONZALO L. BATAAC, AS ASSISTANT CHI...

G.R. NO. L-29433. May 31, 1974

Ponente: CASTRO, J.

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CASTRO, J.:

In June, 1962 the Philippine Constabulary issued a special order directing the reversion to inactive status of Captain Ramiro V. Aragon, a reserve officer in the Armed Forces of the Philippines. Aragon then instituted in the Court of First Instance of Rizal prohibition proceedings (special civil action 7174) against the Secretary of National Defense, the AFP Chief of Staff and the Chief of the PC, to enjoin these officials from reverting him to inactive status.

On February 18, 1963 the court adjudged for Aragon, as follows:

"IN VIEW OF THE FOREGOING, it is the conclusion of this court that the petitioner is exempted from the operation of Sections 1 and 2 of Republic Act No. 2334 and declares him to be covered by the provisions of Section 1 of Republic Act No. 1382.

"The preliminary injunction issued heretofore is hereby made permanent and the respondents are enjoined from reverting the petitioner RAMIRO V. ARAGON into inactive status. No pronouncement as to costs."

Appeal by the Secretary and the AFP authorities proved futile: this Court affirmed the judgment a quo.[1]

On May 14, 1968 Aragon applied to the court below for execution of the judgment, praying that the corresponding writ issue against the Secretary and the AFP officials, "enforcing and/or ordering them as follows:

"a. The inclusion of petitioner-movant's name in the Roster of Officers covered by Republic Act No. 1382;

"b. Readjustment and/or Promotion to the next appropriate commissioned grades, considering the petitioner-movant's length of commissioned service, reckoned as of January 10, 1944, continuously up to the present, under Republic Act No. 291, in relation to Executive Order No. 260, dated July 24, 1957, and to credit him for such length of service, for the purpose of adjustment in pay, longevity pay and quarters allowances, under Republic Act No. 1134; and

"c. Your petitioner-movant's proper placement in the Seniority Lineal List and/or Promotion List of the Philippine Constabulary, under Republic Act No. 4824, and payment of all his accrued pay, longevity pay, allowances due and accrued, since this case has been pending on appeal to the Supreme Court, up to the present."

Opposing the motion, the Secretary and the AFP officials called attention to the patent disparity between the acts Aragon sought to enforce by the said motion and the nature and extent of the relief granted by the final judgment

in special civil action 7174, which this Court affirmed in toto. The opposition notwithstanding, the court, on June 14, 1968, ordered the issuance of a writ of execution against the Secretary and the AFP officials, directing them:

"1. To include petitioner's name in the Roster of Officers covered by Republic Act No. 1382;

"2. To readjust and/or promote petitioner to the next appropriate commissioned grades, considering his length of commissioned service, reckoned as of January 10, 1944, continuously, up to the present, under R.A. No. 291, in relation to Executive Order No. 260, dated July 24, 1957, and to credit him for such length of service, for the purpose of adjustment in pay, longevity pay and quarters allowances, under R.A. No. 1134; and

"3. To put petitioner in his proper placement in the Seniority Lineal List and/or Promotion List of the Philippine Constabulary, under R.A. No. 4824, and to pay petitioner's accrued pay, longevity pay, allowances due and accrued, since this case has been pending on appeal to the Supreme Court, up to the present."

On June 28, 1968 the corresponding writ of execution was issued, requiring compliance by the Secretary and the AFP officials. The latter moved for reconsideration; the court denied the motion in an order dated August 12, 1968.

Hence, the present recourse on certiorari by the petitioners (the Secretary and the AFP officials) who pray that the order dated June 14, 1968 and the writ of execution dated June 28, 1968 be declared null and void.

In the interim, this Court, upon application of the petitioners, issued a temporary restraining order enjoining the respondent judge from enforcing the questioned order and writ.

The only issue of consequence posed by the present petition is whether or not the order and the writ of execution issued pursuant thereto conform substantially to the judgment sought to be enforced.

A cursory comparison between the judgment a quo dated February 18, 1963, on the one hand, and the order dated June 14, 1968 and the writ of execution dated June 28, 1968, on the other, readily points up the great variance between what the judgment a quo specifically and narrowly adjudged and what the execution order and the writ would execute and enforce. The judgment a quo did not adjudge or direct Aragon's inclusion in a roster of officers, or his promotion to the next appropriate commissioned grades, or his placement in the Seniority Lineal List of the PC, or payment of his accrued pay, accrued allowances, and longevity pay. The inclusion of these extraneous matters made the questioned order and the writ completely disparate from and therefore alien to the judgment sought to be enforced.

The petitioners' case is thus clearly meritorious. A writ of execution must conform substantially to the judgment it aims to enforce; it may neither vary nor exceed the terms thereof.[2] And a writ of execution not in substantial conformity with the judgment which gives it life or cause to exist has pro tanto no validity.[3]

Parenthetically, the questioned order and writ would exact the performance of acts related to the characterization and adjustment of Aragon's military status and rating — acts largely involving and requiring serious study of numerous factors in the light of and in accordance with applicable laws and military regulations, as well as the exercise of judgment and/or discretion on the part of the proper military functionaries, acts which the courts, ordinarily and normally, cannot control and should not interfere with.[4]

ACCORDINGLY, the order dated June 14, 1968 and the writ of execution dated June 28, 1968 are annulled and set aside. No costs.

Makalintal, C.J., Teehankee, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] See *Aragon vs. Hon. Peralta, Jr., et al.*, L-21390, November 18, 1967, 21 SCRA 937.

[2] *Bank of the Philippine Islands vs. Green*, 48 Phil. 284; *Ang vs. Castelo and Paz*, 83 Phil. 263; *Damasco, et al. vs. Montemayor, et al.*, 87 Phil. 767; *Collector of Internal Revenue vs. Gutierrez and Morales*, 108 Phil. 215.

[3] *Bank of the Philippine Islands vs. Green*, *ibid.*; *Collector of Internal Revenue vs. Gutierrez and Morales*, *ibid.*; *Velez vs. Martinez and Chacon*, 63 Phil. 231.

[4] In case of inaction or unwarranted delay on the part of the petitioners (or their successors), the respondent Aragon may have initial recourse to the President who is the Commander-in-Chief of all the armed forces of the Philippines.

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