

MARVEL BUILDING CORPORATION, PLAINTIFF AND APPELLANT, VS. PHILIPPINE WAR DAMAGE COMMISSION, DEFENDANT AND APPELLEE.

G.R. No. L-1822. November 28, 1949

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This case is here on appeal from an order of the Court of First Instance of Manila, dismissing the complaint of the appellant Marvel Building Corporation on motion to dismiss filed by the defendant-appellee Philippine War Damage Commission dated October 21, 1947.

The complaint filed in the lower court alleges that on July 27, 1946, the defendant entered into a contract of lease for the occupation of the second, third, fourth, fifth and sixth floors of the L. R. Aguinaldo Building situated at 500-520 Juan Luna, Manila at the agreed monthly rental of \$4,345 or P8,690, payable within the first five (5) days of each calendar month; that during the existence of the lease contract, the building in question was sold to Segundo Esguerra, Sr. on January 17, 1947, subject to the aforesaid lease contract, the same building being later conveyed to the plaintiff Marvel Building Corporation on February 27, 1947; that the defendant occupied the premises until the end of July, 1947; during which it paid the agreed monthly rentals to the original owner L. R. Aguinaldo Inc., then to Segundo Esguerra, the second owner, and finally, to the plaintiff herein, except the rent for the month of July, 1947; that the defendant left the premises at the end of July, 1947 but without paying the rent of P8,690, corresponding to the said month of July, 1947, which amount of rent it has failed and refused to pay despite demands made orally and in writing, and by reason of said refusal, the plaintiff suffered damages in the amount of P2,000.

To the complaint the Philippine War Damage Commission filed a special appearance only to present a motion to dismiss on the ground of lack of jurisdiction of the Court over the person of the indispensable and real party defendant and over the subject matter. After considering the complaint and the motion to dismiss as well as the written arguments presented in support of the same, the lower court issued its order of dismissal now the subject of the appeal.

The position taken by the appellee is that it is an agency of the United States Government and that the judgment sought would involve a liability or payment not by the defendant but by the United States Government which it represents. Because of this, the suit, it is said, is really one against the Government of the United States over which the lower court had no jurisdiction unless with the consent of the said Government.

The Philippine War Damage Commission was created by virtue of Public Law No. 370, 79th Congress (U. S.), approved on April 30, 1946, entitled PHILIPPINE REHABILITATION ACT OF 1946. Under said Act the Commission shall consist of three (3) members, one of them to be a Filipino, appointed by the President of the United States with the advice and consent of the Senate. The Commission is authorized to appoint and fix the compensations and allowances of such officers, attorneys, and employees, and may make such expenditures as

may be necessary to carry out its functions. The Commission may prescribe such rules and regulations which may be necessary for carrying out such functions. The Commission is authorized to make compensations for physical loss or destruction to properties in the Philippines by reason of the last war subject to certain limitations as to the manner such destruction was caused, the amount of the claim, etc. The Commission is required to make periodical report to the Congress of the United States Concerning its operations. For the purpose of paying compensations, the amount of \$400,000,000 was appropriated from the United States Treasury and for expenses of the Commission, the sum of \$4,000,000.

It is clear that the Philippine War Damage Commission was created primarily, if not solely, as an entity to carry out the desire and the decision of the United States Government to help in the rehabilitation of the people of the Philippines by compensating them at least in part for the damage and the physical loss suffered by them because of the Pacific war. The officers of the Commission are appointed by the President of the United States with the advice and consent of the Senate. The money disbursed by the Commission for compensation of war damage claimants and for its own expenses come from the United States Treasury. The Commission is responsible only to the United States President and Congress to which it files periodic reports of its operations. There is every reason to believe and to hold that the Commission is an agency or instrumentality of the United States Government created by it to perform certain functions in pursuance of a policy and mission decided upon by the United States Government to help the Philippines in its rehabilitation. Said Commission in all its acts and in the performance of its functions spends money of the U.S. Government and is responsible to said Government to which it gives report and accounting of its work. It has no money or funds of its own subject to its absolute and free disposal but only such funds appropriated by the U.S. Government and assigned to it to be expended for specific purposes.

But the fact that the defendant-appellee is an instrumentality or agency of the U.S. Government is not decisive in this case because as was held by this Court in the case of *Syquia vs. Almeda Lopez et al.*, G.R. No. L-1648,[1] the owner of property illegally held even by an officer or agent of the U.S. Government may sue to recover such possession altho such officer or agent claims to be acting for such Government. However, it was equally held in that case, and this is important and decisive, that where the judgment in such a case would result not only in the recovery of the possession of the property in favor of said citizen but also in a charge against or financial liability to the Government, then the suit should be regarded as one against, the Government itself and consequently, it cannot prosper or be validly entertained by the courts except with the consent of said Government (citing the case of *Land vs. Dollar*, 91 Law ed. 1209).

In view of our decision in that case of *Syquia vs. Almeda Lopez et al.*, supra, we find it unnecessary to enter into an extensive discussion and consideration of the present case. It is enough to say that any judgment under the complaint in favor of the plaintiff herein and against the defendant would eventually be a charge against or financial liability of the United States Government because as already stated, the Commission has no funds of its own for the purpose of paying money judgments. This eventual financial liability of the U. S. Government under the complaint is admitted by counsel for the plaintiff itself in its rejoinder filed in the lower court found on page 30 of the Record on Appeal where he says in part:

"It is true that the money that will be adjudged against the defendant Commission will come from the United States Government but there will be no need of another appropriation by the Congress of the United States as that appropriation has already been given to the Commission which is charged not only with spending and giving money to aid the Philippine rehabilitation but also to make such expenditures as may be necessary to carry out its functions." (Italics is ours.)

And in the present case, there is more reason and greater need for applying the present rule. The Philippine War Damage Commission is rather a big entity, employing thousands of officials and employees, with many branches

and agencies in the provinces. In the performance of its functions, it must have had and will have occasion to deal with the people and with entities and contract with them as to its supplies, needs, services and office spaces, and in case of misunderstanding or differences of opinion as to the payment for the same or its liability on its agreements and contracts, without the application of this rule, it may be and will be subject to numerous suits which will eventually result in fixing a charge or financial liability against the U. S. Government which is not made a party to the suit and which has not been given an opportunity to refute the charge. In other words, as was said in a case, these suits would then be tried behind the Government's back.

For the foregoing reasons, and finding no reversible error in the order appealed from, the same is hereby affirmed with costs against appellant.

Moran, C.J., Ozaeta, Paras, Bengzon, Padilla, Tuason, Reyes, and Torres, JJ., concur.

[1] 47 O. G. 665; 84 Phil., 312.

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