

GOVERNMENT SERVICE INSURANCE SYSTEM EMPLOYEES ASSOCIATION (GSISEA) AND GOVERNMENT SERVICE INSURANCE SYSTEM SUPERVISORS UNION (GSISSU), PETITIONERS, VS. HON JUDGE CARMELINO ALVEN...

G.R. No. L-15614. May 30, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This is an action for declaratory relief instituted by the Government Service Insurance System (GSIS) in the Court of First Instance of Manila (Civil Case No. 40319), joining the Government Service Insurance System Employees' Association (GSISEA) and Government Service Insurance System Supervisors' Union (GSISSU) as party respondents.

The petition was filed on May 29, 1959, or 11 days after the members of the GSISEA declared a strike, who were, however, prevailed upon to return to work 4 days later. Said petition seeks a resolution on the questions of whether the GSIS is exercising governmental or proprietary functions under the existing laws; whether its employees, who are governed by the Civil Service Law, can compel it to enter into a collective bargaining agreement with regards to the terms and conditions of their employment; and, finally, whether said employees can declare a strike. It is alleged "that a judicial declaration on the abovementioned questions in relation to the pertinent provisions of law is necessary because of the labor dispute now pending between the GSIS and its employees affiliated with the respondents GSISEA and GSISSU."

On June 12, 1959, the respondents GSISEA and GSISSU filed a motion to dismiss the petition on the grounds that it does not state a cause of action for declaratory relief; that the court does not have jurisdiction over the subject matter for which relief is sought; and that any declaration by the court on the questions raised is unnecessary and improper.

The said respondents having again declared a strike on June 23, 1959, because of some alleged unfair labor practices on the part of the GSIS, the latter on June 24, 1959, filed an amended petition for declaratory relief, praying for preliminary injunction to enjoin certain alleged illegal acts of the members of the respondents. In the meantime, the latter had filed a complaint with the Court of Industrial Relations, and on July 1, 1959, a prosecutor of that court, after previous preliminary investigation, filed with said Industrial Court a complaint for unfair labor practices in violation of Sec. 4(a), subsecs. 1 and 4 of Republic Act No. 875. To this complaint, the GSIS filed its answer, denying the charge of unfair labor practice and alleging, by way of affirmative defenses, that the Government Service Insurance System is exercising functions principally governmental in nature; that its employees are prohibited from declaring strikes against it under sec. 11 of Republic Act 875; and that the strikes declared by the complaining unions on May 18, and June 23, 1959 are illegal.

On July 2, 1959, the respondents GSISEA and GSISSU, in support of their motion to dismiss the petition for declaratory relief, filed with the Court of First Instance of Manila a motion and manifestation, calling the attention

of the court to the pendency of the unfair labor practice case as well as CIR Case No. 896-V, which had been pending in the Court of Industrial Relations long before the filing of the petition for declaratory relief. The respondent Judge, however, on July 7, 1959, denied the motion and granted the writ of preliminary injunction prayed for.

Alleging that the respondent Judge issued the above mentioned order in excess of its jurisdiction and with grave abuse of discretion, the respondent unions filed the present petition for certiorari and prohibition with preliminary injunction. We granted due course to the petition, and upon petitioners' filing a bond of P200.00 a writ of preliminary injunction was issued by this court.

The petition is meritorious.

In the case of GSIS vs. Castillo, et al., 98 Phil., 876; 52 Off. Gaz. (9) 4269; this Court had already had occasion to pass upon the questions on which judicial declaration in the present proceedings is sought. That case, which is still pending with the Court of Industrial Relations, is a labor dispute between herein petitioner GSISEA and the GSIS certified by the Secretary of Labor to the Industrial Court on June 17, 1953, when members of the said GSISEA declared a strike as a result of the refusal of the Board of Trustees of the GSIS to grant all their 14 demands regarding tenure and conditions of employment. The GSIS, after its motion to dismiss on the ground of lack of jurisdiction had been denied, brought the case to this Court thru a writ of prohibition with preliminary injunction to enjoin the Industrial Court from hearing and further proceeding with the case, it being contended that it was engaged in the performance of a governmental function of the State. Overruling the contention, this Court said: "* * * in *Abad Santos vs. Auditor General*, 79 Phil., 190, the petitioner (GSIS) was spoken of as a * * * un verdadero negocio, una empresa gigantesca en que estan vitalmente interesados miles de clientes * * * We need only add, to show that the petitioner is in error, that its business of insurance is not inherently or exclusively a governmental function; it is on the contrary, in essence and practice, of a private nature and interest."

The above pronouncements were reiterated and further explained in the case of *Boy Scouts of the Phils., vs. Araos* 102 Phil., 1080, where this Court said: "And as to the Government Service Insurance, it is well known that it invests its funds derived from the contributions of government employees in huge amounts and at a substantial interests and profits made therefrom are in part distributed as dividends among its insured. Surely said insurance entity does not operate for charity but in practice operates for profits or gain for the benefit of those insured by it. This aside from the fact that insurance has been generally considered and held by the courts to be a business."

Inasmuch as the petition for declaratory relief in the present proceedings was filed to determine whether or not the GSIS is a government agency performing governmental functions, a question which has already been determined by no less than the highest court of the land and in a case in which the GSIS itself is a party, we do not see how the same could be justified. If declaratory relief is not necessary or not proper where there is already an action pending in another court involving the same issue, or where the plaintiff has another more effective relief (*Moran's Comments on the Rules of Court*, Vol. 2, 1957 ed., p. 150), with more reason should it be improper or unnecessary when, as in the instant case, it appears to be a moot case, since it seeks to get a judgment on a pretended controversy, when in reality there is none. Indeed, in its true light, the present petition for declaratory relief seems to be no more than a request for an advisory opinion to which courts in this and other jurisdiction have cast a definite aversion.

It should, furthermore, be observed that the petition below seeking a judicial declaration on whether members of the respondent unions as government employees can declare a strike was filed after the latter had actually gone on strike. Under sec. 2, Rule 66, a complaint for declaratory relief will not prosper if filed after a contract or statute, the construction of which is sought, has already been breached. (See *Samson vs. Andal*, 89 Phil., 627.) To rule

otherwise would be to prejudge a pending case and to encourage multiplicity of suits. (De Borja vs. Villadolid, 85 Phil., 36).

Finally, it is also on record that an unfair labor practice case exists between the parties in the instant case. That case has already been filed with the Court of Industrial Relations and involves the same acts of the members of herein respondent unions, which are sought to be enjoined in the present petition for declaratory relief. It being apparent that the present proceedings are closely interwoven with, if not actually arising out of, the unfair labor practice case above referred to, which is within the exclusive jurisdiction of the Industrial Court, the court below has clearly no jurisdiction to entertain the petition for declaratory relief, much less issue the temporary restraining order prayed for therein. (PAFLU vs. Tan, 99 Phil., 864; 52 Off. Gaz., 5836; Reyes vs. Tan, 99 Phil., 880; 52 Off. Gaz., 6187; PAFLU vs. Caluag, G. R. No. L-9104, Sept. 10, 1956; PAFLU vs. Barot, 99 Phil., 1008; 52 Off. Gaz., 5644; Associated Watchmen and Security Union vs. Macadaeg, 101 Phil., 896; 54 Off. Gaz., 7397; Consolidated Labor Association of the Phils., vs. Caluag, 103 Phil., 1032; 55 Off. Gaz. [22] 4037; see also Erlanger and Galenger, Inc. vs. National Association of Trade Unions, (104 Phil., 17).

In view of the foregoing, the petition for certiorari and prohibition is granted, and the writ of preliminary injunction heretofore issued made permanent, with costs against the respondent GSIS.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, and Concepcion, JJ., concur.
Reyes, J.B.L., Endencia and Barrera, JJ., did not take part.

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