

INSURANCE COMPANY OF NORTH AMERICA, PLAINTIFF AND APPELLANT, VS. REPUBLIC OF THE PHILIPPINES AND BUREAU OF CUSTOMS, DEFENDANTS AND APPELLEES.

G. R. No. L-26532. August 30, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Plaintiff-appellant moves for reconsideration of the decision.

Appellant-movant contends that the case on which the decision is based, *Mobil Philippines Exploration, Inc. vs. Customs Arrastre Service*,^[1] goes against previous rulings of this Court in stating that "plaintiff should have filed its present claim to the General Auditing Office, it being for money, under the provisions of Commonwealth Act 327, which state the conditions under which money claims against the Government may be filed." Citing *Compania General de Tabacos vs. French*,^[2] and *Philippine Operations, Inc. vs. Auditor General*,^[3] it argues that its present claim is not one that may be filed with the Auditor General under Act 3083 and Commonwealth Act 327 because under said law the Auditor General cannot decide unliquidated claims nor claims in which the liability of the Government is in issue.

As to the first point, the present claim has not been shown to be unliquidated. Appellant claims a fixed amount of P1,543.58. A liquidated claim within the power of the Auditor General to decide under the above-stated statutes, is a claim for money the amount of which is either fixed or can be readily determined from vouchers, reports or other means within reach of accounting officers (*Compania General de Tabacos vs. French*, supra, at p. 44). Since in the present case, there are the shipping papers and invoices readily showing the precise value of the articles received from the carrier, but not delivered to the consignee, the fixed amount claimed does not call for the kind of deep and broad investigation of factual evidence that leaves the amount to be appreciated to the discretion of the investigator. Rather, it is one which can fairly easily be determined from accessible papers and records of the shipment.

The second point is not supported by the rulings movant cites. Nowhere in *Compañia General de Tabacos* case or the *Philippine Operations* case is it stated that the Auditor General has no power to decide a claim if the liability of the Government is at issue. A liquidated claim does not become unliquidated because the Government denies liability. For its amount would still be fixed or determinable from readily accessible supporting papers. It is precisely for the Auditor General to decide whether to allow or reject the claim. The power of the Auditor General to pass upon the issue of liability of the Government in claims under Act 3083 and Commonwealth Act 327 has in fact been inferentially recognized in several cases decided by this Court.^[4]

In *Eleazar vs. Auditor General*, L-21693, April 30, 1966, this Court expressly declared that it "finds no valid reason for interfering with the discretion exercised by the Auditor General when he denied the request of petitioner" for the payment of bonus, cost of living allowances, and gift certificates

Finally, lest it be forgotten, the principal issue here is suability of the State; regardless of whether or not

appellant's claim is one that may be pressed by following the procedure in Act 3083 and Commonwealth Act 327, the fact remains that direct suit against the State, as herein, cannot be maintained without its consent.

Wherefore, the motion for reconsideration is denied for lack of merit. So ordered.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zal-divar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

Motion denied.

[1] 23139, December 17, 1966.

[2] 239 Phil. 34.

[3] 94 Phil, 868.

[4] In *Abudo vs. Auditor General*, L-16071, April 29, 1961, the Auditor General denied an employee's claim for payment of salary during a period of suspension. This Court affirmed the denial. In *Earnshaw Docks & Honolulu Iron Works vs. Gimenez*, L-14814, Dec. 30, 1961, this Court affirmed the decision of the Auditor General denying the refund of 17% tax on dollar earnings used to purchase shares of stock abroad. In *Enriquez vs. Gimenez*, 107 Phil 932, We also affirmed the action of the Auditor General denying a claim for payment of attorney's fees for services rendered by petitioner who had been engaged by the municipal council and the mayor without authority of law. In *Celestial vs. Southern Mindanao Experimental Station*, 106 Phil. 696, the Auditor General held that the employees of the Southern Experimental Station of the Bureau of Plant Industry were agricultural employees and were entitled to P2.50 a day. This Court affirmed the holding.

In *Eleazar vs. Auditor General*, L-21693, April 30, 1966, this Court expressly declared that it "finds no valid reason for interfering with the discretion exercised by the Auditor General when he denied the request of petitioner" for the payment of bonus, cost of living allowances, and gift certificates during the suspension of petitioner. In *Ramon A. Gonzales vs. The Provincial Auditor*, L-20568, Dec. 28, 1964, this Court unequivocally held that "the Auditor General exercises a discretion or a quasi-judicial power when he acts on whether to pass a salary voucher in audit or not."

In *Smith Bell & Co. (Phil.) Inc. vs. Gimenez*, L-17617, June 29, 1963, the claim for payment of a typewriter purchased by the Municipality of Paniqui, Tarlac was denied by the Auditor General on the ground that the machine had not been inspected by representatives of his (Auditor General's) office, before its delivery to the municipality. On appeal, We reversed the decision of the Auditor General. In *Espina vs. Gimenez*, L-18271, April 30, 1964, this Court confirmed the action of Auditor General in setting off an uncontested indebtedness in favor of the Government against a settled money claim due from it. In *P. Vda. de Murciano vs. Auditor General*, 103 Phil. 907, this Court ordered the Auditor General to approve the payment of the balance of back rentals on the property of the widow which had been used as impact area by the Armed Forces of the Philippines. In *Digran vs. Auditor General*, L-21593, April 29, 1966, the administrator of the estate of deceased person filed a claim with the City Appraisal Committee of the City of Cebu for payment of compensation of a lot of the deceased through which the City had constructed a road without prior expropriation proceedings. Thru several endorsements, the claim reached the Deputy Auditor General who denied the same. On appeal, this Court reversed the appelad decision.

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