

LEOPOLDO T. BACANI AND MATEO A. MATOTO, PLAINTIFFS AND APPELLEES, VS. NATIONAL COCONUT CORPORATION, ET AL., DEFENDANTS, NATIONAL COCONUT CORPORATION AND BOARD OF LIQUIDATORS, DE...

G.R. No. L-9657. November 29, 1956

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Plaintiffs herein are court stenographers assigned in Branch VI of the Court of First Instance of Manila. During the pendency of Civil Case No. 2293 of said court, entitled Francisco Sycip vs. National Coconut Corporation, Assistant Corporate Counsel Federico Alikpala, counsel for defendant, requested said stenographers for copies of the transcript of the stenographic notes taken by them during the hearing. Plaintiffs complied with the request by delivering to Counsel Alikpala the needed transcript containing 714 pages and thereafter submitted to him their bills for the payment of their fees. The National Coconut Corporation paid the amount of P564 to Leopoldo T. Baeani and P150 to Mateo A. Matoto for said transcript at the rate of P1 per page.

Upon inspecting the books of this corporation, the Auditor General disallowed the payment of these fees and sought the recovery of the amounts paid. On January 19, 1953, the Auditor General required the plaintiffs to reimburse said amounts on the strength of a circular of the Department of Justice wherein the opinion was expressed that the National Coconut Corporation, being a government entity, was exempt from the payment of the fees in question. On February 6, 1954, the Auditor General issued an order directing the Cashier of the Department of Justice to deduct from the salary of Leopoldo T. Bacani the amount of P25 every payday and from the salary of Mateo A. Matoto the amount of P10 every payday beginning March 30, 1954. To prevent deduction of these fees from their salaries and secure a judicial ruling that the National Coconut Corporation is not a government entity within the purview of section 16, Rule 130 of the Rules of Court, this action was instituted in the Court of First Instance of Manila.

Defendants set up as a defense that the National Coconut Corporation is a government entity within the purview of section 2 of the Revised Administrative Code of 1917 and, hence, it is exempt from paying the stenographers' fees under Rule 130 of the Rules of Court. After trial, the court found for the plaintiffs declaring (1) "that defendant National Coconut Corporation is not a government entity within the purview of section 16, Rule 130 of the Rules of Court; (2) that the payments already made by said defendant to plaintiffs herein and received by the latter from the former in the total amount of P714, for copies of the stenographic transcripts in question, are valid, just and legal; and (3) that plaintiffs are under no obligation whatsoever to make a refund of these payments already received by them." This is an appeal from said decision.

Under section 16, Rule 130 of the Rules of Court, the Government of the Philippines is exempt from paying the legal fees provided for therein, and among these fees are those which stenographers may charge for the transcript of notes taken by them that may be requested by any interested person (section 8). The fees in question are for the

transcript of notes taken during the hearing of a case in which the National Coconut Corporation is interested, and the transcript was requested by its assistant corporate counsel for the use of said corporation.

On the other hand, section 2 of the Revised Administrative Code defines the scope of the term "Government of the Republic of the Philippines" as follows:

" 'The Government of the Philippine Islands' is a term which refers to the corporate governmental entity through which the functions of government are exercised throughout the Philippine Islands, including, save as the contrary appears from the context, the various arms through which political authority is made effective in said Islands, whether pertaining to the central Government or to the provincial or municipal branches or other form of local government."

The question now to be determined is whether the National Coconut Corporation may be considered as included in the term "Government of the Republic of the Philippines" for the purposes of the exemption of the legal fees provided for in Rule 130 of the Rules of Court.

As may be noted, the term "Government of the Republic of the Philippines" refers to a government entity through which the functions of government are exercised, including the various arms through which political authority is made effective in the Philippines, whether pertaining to the central government or to the provincial or municipal branches or other form of local government. This requires a little digression on the nature and functions of our government as instituted in our Constitution.

To begin with, we state that the term "Government" may be defined as "that institution or aggregate of institutions by which an independent society makes and carries out those rules of action which are necessary to enable men to live in a social state, or which are imposed upon the people forming that society by those who possess the power or authority of prescribing them" (U.S. vs. Dorr, 2 Phil., 332). This institution, when referring to the national government, has reference to what our Constitution has established composed of three great departments, the legislative, executive, and the judicial, through which the powers and functions of government are exercised. These functions are twofold: constitute and ministrant. The former are those which constitute the very bonds of society and are compulsory in nature; the latter are those that are undertaken only by way of advancing the general interests of society, and are merely optional. President Wilson enumerates the constituent functions as follows:

""(1) The keeping of order and providing for the protection of persons and property from violence and robbery.

'(2) The fixing of the legal relations between man and wife and between parents and children.

'(3) The regulation of the holding, transmission, and interchange of property, and the determination of its liabilities for debt or for crime.

'(4) The determination of contract rights between individuals.

'(5) The definition and punishment of crime.

'(6) The administration of justice in civil cases.

'(7) The determination of the political duties, privileges, and relations of citizens.

'(8) Dealings of the state with foreign powers: the preservation of the state from external danger or encroachment and the advancement of its international interests.'" (Malcolm, *The Government of the Philippine Islands*, p. 19.)

The most important of the ministrant functions are: public works, public education, public charity, health and

safety regulations, and regulations of trade and industry. The principles determining whether or not a government shall exercise certain of these optional functions are: (1) that a government should do for the public welfare those things which private capital would not naturally undertake and (2) that a government should do those things which by its very nature it is better equipped to administer for the public welfare than is any private individual or group of individuals. (Malcom, *The Government of the Philippine Islands*, pp. 19-20.)

From the above we may infer that, strictly speaking, there are functions which our government is required to exercise to promote its objectives as expressed in our Constitution and which are exercised by it as an attribute of sovereignty, and those which it may exercise to promote merely the welfare, progress and prosperity of the people. To this latter class belongs the organization of those corporations owned or controlled by the government to promote certain aspects of the economic life of our people such as the National Coconut Corporation. These are what we call government-owned or controlled corporations which may take on the form of a private enterprise or one organized with powers and formal characteristics of a private corporations under the Corporation Law.

The question that now arises is: Does the fact that these corporation perform certain functions of government make them a part of the Government of the Philippines? The answer is simple: they do not acquire that status for the simple reason that they do not come under the classification of municipal or public corporation. Take for instance the National Coconut Corporation. While it was organized with the purpose of "adjusting the coconut industry to a position independent of trade preferences in the United States" and of providing "Facilities for the better curing of copra products and the proper utilization of coconut by products", a function which our government has chosen to exercise to promote the coconut industry, however, it was given a corporate power separate and distinct from our government, for it was made subject to the provisions of our Corporation Law in so far as its corporate existence and the powers that it may exercise are concerned (sections 2 and 4, Commonwealth Act No. 518). It may sue and be sued in the same manner as any other private corporations, and in this sense it is an entity different from our government. As this Court has aptly said, "The mere fact that the Government happens to be a majority stockholder does not make it a public corporation" (*National Coal Co. vs. Collector of Internal Revenue*, 46 PML, 586-587). "By becoming a stockholder in the National Coal Company, the Government divested itself of its sovereign character so far as respects the transactions of the corporation. * * * Unlike the Government, the corporation may be sued without its consent, and is subject to taxation. Yet the National Coal Company remains an agency or instrumentality of government." (*Government of the Philippine Islands vs. Springer*, 50 Phil., 288.)

To recapitulate, we may mention that the term "Government of the Republic of the Philippines" used in section 2 of the Revised Administrative Code refers only to that government entity through which the functions of the government are exercised as an attribute of sovereignty, and in this are included those arms through which political authority is made effective whether they be provincial, municipal or other form of local government. These are what we call municipal corporations. They do not include government entities which are given a corporate personality separate and distinct from the government and which are governed by the Corporation Law. Their powers, duties and liabilities have to be determined in the light of that law and of their corporate charters. They do not therefore come within the exemption clause prescribed in section 16, Rule 130 of our Rules of Court.

"Public corporations are those formed or organized for the government of a portion of the State." (Section 3, Republic Act No. 1459, Corporation Law)

"The generally accepted definition of a municipal corporation would only include organized cities and towns, and like organizations, with political and legislative powers for the local, civil government and police regulations of the inhabitants of the particular district included in the boundaries of the corporation." *Heller vs. Stremmel*, 52 Mo. 309, 312."

"In its more general sense the phrase 'municipal corporation' may include both towns and counties, and other public corporations created by government for political purposes. In its more common and limited signification, it embraces only incorporated villages, towns and cities. *Dunn vs. Court of County Revenues*, 85 Ala. 144, 146, 4 So. 661." (McQuillin, *Municipal Corporations*, 2nd ed. Vol. I, p. 385.)

"We may, therefore, define a municipal corporation in its historical and strict sense to be the incorporation, by the authority of the government, of the inhabitants of a particular place or district, and authorizing them in their corporate capacity to exercise subordinate specified powers of legislation and regulation with respect to their local and internal concerns. This power of local government is the distinctive purpose and the distinguishing feature of a municipal corporation proper." (Dillon, *Municipal Corporations*, 5th ed. (Vol. I, p. 59.)

It is true that under section 3, Rule 130, stenographers may only charge as fees P0.30 for each page of transcript of not less than 100 words before the appeal is taken and P0.15 for each page after the filing of the appeal, but in this case the National Coconut Corporation has agreed and in fact has paid P1.00 per page for the services rendered by the plaintiffs and has not raised any objection to the amount paid until its propriety was disputed by the Auditor General. The payment of the fees in question became therefore contractual and as such is valid even if it goes beyond the limit prescribed in section 8, Rule 130 of the Rules of Court.

As regards the question of procedure raised by appellants, suffice it to say that the same is insubstantial, considering that this case refers not to a money claim disapproved by the Auditor General but to an action of prohibition the purpose of which is to restrain the officials concerned from deducting from plaintiffs' salaries the amount paid to them as stenographers' fees. This case does not come under section 1, Rule 45 of the Rules of Court relative to appeals from a decision of the Auditor General.

Wherefore, the decision appealed from is affirmed, without pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, Reyes, J. B. L., Endencia and Felix, JJ., concur.

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