

**FELIX C. DUNGCA, PETITIONER, VS. HON. MACARIO PERALTA, JR.,
AS SECRETARY OF NATIONAL DEFENSE, GENERAL AFREDO M.
SANTOS, AS CHIEF OF STAFF OF THE ARMED FORCES OF THE
PHILIPPINES ...**

G.R. No. L-27437. December 06, 1977

Ponente: AQUINO, J.

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AQUINO, J.:

The respondents appealed from the decision of the Court of First Instance of Rizal, Pasig Branch VI, declaring that petitioner Felix C. Dungca, a lieutenant colonel in the Reserve Force of the Philippine Army, is exempted from the operation of sections 1 and 2 of Republic Act No. 2334 and is covered by section 1 of Republic Act No. 1382 and enjoining the respondents from enforcing Special Order No. 118 dated December 5, 1964 and from reverting him to inactive status.

The parties submitted their briefs. The case was submitted for decision on October 17, 1967.

In this Court's resolution of June 17, 1977 the parties were required to state whether petitioner Dungca is still in the active service and whether the case had become moot and academic. The Solicitor General was directed to make the proper substitution of parties in case it is desired that this case be decided on the merits.

Counsel for Dungca, in his manifestation of July 16, 1977, stated that the petitioner was retired from the active service as of June 7, 1972 upon reaching the age of sixty years and completing more than twenty-nine years' service. He was retired with the rank of colonel and given retirement pay based on the base pay and longevity pay of a brigadier general (Par. III, General Orders No. 577, GHQ, AFP, dated June 1, 1972).

Petitioner's counsel concluded that the instant case had become moot and academic. The Solicitor General, in his manifestation of November 10, 1977, reached the same conclusion.

WHEREFORE, this case is dismissed for having become moot and academic. No costs.

SO ORDERED.

Fernando, (Chairman), Antonio, Concepcion, Jr., and Santos, JJ., concur.
Barredo, J., no part.

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