

MANILA ELECTRIC COMPANY, PETITIONER, VS. PHILIPPINE CONSUMERS FOUNDATION, INC., EDGARDO S. ISIP, HON. JUDGE MANUEL M. CALANOG, JR., AND HON. JUDGE TIRSO D. VELASCO, RESPONDENTS.

G.R. No. 101783. January 23, 2002

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Interest republicae ut sit finis litium[1] - it is to the interest of the public that there should be an end to litigation by the same parties and their privies over a subject fully and fairly adjudicated. From this overwhelming concern springs the doctrine of res judicata – an obvious rule of reason according stability to judgments.

Challenged in this petition for review on certiorari are the a) Decision in Civil Case No. Q-89-3659 dated January 16, 1991 of the Regional Trial Court, Branch 76, Quezon City; [2] and b) its Order dated September 10, 1991[3] denying the motion for reconsideration of the said Decision.

The pertinent facts are:

On September 11, 1974, former President Ferdinand E. Marcos, with the objective of enabling the grantees of electric franchises to reduce their rates "within the reach of consumers", [4] promulgated Presidential Decree No. 551[5] providing for the reduction from 5% to 2% of the franchise tax paid by electric companies, thus:

“SECTION 1. Any provision of law or local ordinance to the contrary notwithstanding, the franchise tax payable by all grantees of franchises to generate, distribute and sell electric current for light, heat and power shall be two (2%) of their gross receipts received from the sale of electric current and from transactions incident to the generation, distribution and sale of electric current.”

On February 5, 1982, the Philippine Consumers Foundation, Inc., (PCFI) filed with the Board of Energy (BOE) a "Petition for Specific Performance, Damages and Violation of P. D. No. 551"[6] against the Manila Electric Company (Meralco), docketed as BOE Case No. 82-198. PCFI sought for the immediate refund by Meralco to its customers of all the savings it realized under P.D. No. 551, through the reduction of its franchise tax from 5% to 2%, with interest at the legal rate; and for the payment of damages and a fine in the amount of P50, 000.00 for violating P.D. 551. It moored its petition on Section 4 of P.D. No. 551 which provides:

“Sec. 4. All the savings realized by electric franchise holders from the reduction of the franchise tax under Section 1 and tariff reductions and tax credits under Sections 2 and 3, shall be passed on to the ultimate consumer. The Secretary of Finance shall promulgate rules and regulations and devise a reporting systems to carry out the provisions of this Decree.”

In its answer to the petition, Meralco alleged that it was duly authorized by the BOE in its Order dated March 10, 1980 in BOE Case No. 79-692 to retain the disputed savings; and that the said Order had long become final.

On November 25, 1982, the BOE issued its Decision dismissing PCFI's petition, declaring that Meralco was indeed authorized by the BOE, in BOE Case No. 79-692, to retain the disputed savings under P.D. 551, thus:

"It is at once evident from the foregoing controlling facts and circumstances, particularly the Order of this Board dated March 10, 1980, as confirmed by the reply-letter dated March 3, 1981, that Meralco has been duly authorized to retain the savings realized under the provisions of P.D. 551. The authority granted in the said Order and letter is so clear and unequivocal as to leave any room for contradictory interpretation. This Board, therefore, holds as untenable petitioner's claim that respondent Meralco was never authorized under the said Order and letter to hold on to the savings realized under the said decree.

"The Board likewise finds to be devoid of merit petitioner's contention that pursuant to Opinion No. 140, Series of 1979, of the Minister of Justice, it is absolutely mandatory on the part of respondent Meralco to pass on to its customers the savings under consideration. It must be pointed out that the Order of March 10, 1980 was issued by this Board on the basis of the recommendation contained in the Memorandum dated November 30, 1979 of the Minister of Finance, which was approved by the President of the Philippines in his directive to this Board dated December 11, 1979 issued thru Presidential Executive Assistant Jacobo Clave. This Board believes and so holds that the approval by the President of the Philippines of the aforesaid Finance Ministry's recommendation had the effects of (a) reversing or modifying the aforementioned Opinion of the Minister of Justice; and (b) confirming the promulgation by the Ministry of Finance, conformably with the specific authority granted it under P.D. No. 551, of an additional rule or regulation for the implementation of the said decree for the guidance of this Board. In issuing the Order of March 10, 1980, therefore, the Board has done no more than follow and be guided by the said additional rule or regulation.

"It is noteworthy to mention also that the registered oppositors in BOE Case No. 79-692 (formerly BPW Case No. 72-2146), where the respondent herein originally filed its motion requesting for authority to defer the passing on to its customers of the franchise tax reduction benefits under P.D. No. 551, have done nothing to seek relief from or to appeal to the appropriate forum, the said Order of March 10, 1980. As a consequence, the disposition contained therein have long become final.

x x x x x

"That Meralco has been authorized to retain the savings resulting from the reduction of the franchise tax under P.D. No. 551 is, therefore beyond question."[7] (Emphasis supplied)

PCFI filed a motion for reconsideration but was denied by the BOE. Hence, PCFI filed a Petition for Certiorari with this Court, docketed as G.R. No. 63018. In a Resolution dated October 22, 1985, this Court dismissed the petition for lack of merit, holding that:

"We see no grave abuse of discretion warranting the setting aside of the BOE order.

"P.D. No. 551 ordered the Minister of Finance to issue implementing rules and regulations. The Minister authorized all grantees of electric franchises, not Meralco alone, whose rates of return on their rate bases were below the legal allowable level to either ask for increased rates or to defer the passing on of benefits under the decree to consumers until just and reasonable returns could be had. Lengthy investigations, audits, hearings, and determinations over practically an eight year period preceded the questioned decision. The petitioners failed both below and in this petition to successfully refute the facts ascertained in the audits and examinations. The BOE approved option formed the basis of subsequent determinations of Meralco rates and the adopted formula became the basis of computations. When this petition was filed on January 27, 1983, the November 25, 1982 ruling was already final and executory. Moreover, the March 10, 1980 judgment rendered in BOE Case No. 79-692, where Meralco had filed a motion for authority to defer passing on to customers the savings from the reduction of franchise taxes, was not appealed or questioned by the petitioners. Instead, they filed BOE Case No. 82-198 on February 5, 1982 or almost two years later, raising the same issues against the same parties. BOE's questioned decision in Case No. 82-198 used the facts in BOE Case No. 79-692 for its

conclusions. Not only had the March 10, 1980 decision confirmed the findings of the Minister of Finance on Meralco's accounts and finances but in filing the second case, the petitioners were asking for a readjudication of the same issues in another challenge to these same findings .x x x."[8] (Emphasis supplied)

Four years thereafter, PCFI and a certain Edgardo S. Isip, private respondents herein, filed with respondent Regional Trial Court, Branch 76, Quezon City, a petition for declaratory relief, docketed as Civil Case No. Q-89-3659. Private respondents prayed for a ruling on who should be entitled to the savings realized by Meralco under P.D. No. 551. Once again, they insisted that pursuant to Section 4 of P.D. No. 551, the savings belong to the ultimate consumers.

Meralco, in its answer, prayed for the dismissal of the petition on the ground of res judicata, citing this Court's Resolution in G.R. No. 63018 which affirmed the BOE's Decision in BOE Case No. 82-198.

On January 16, 1991, respondent RTC rendered the assailed Decision declaring null and void the Resolution of this Court in G.R. No. 63018 and on the basis of the Dissenting Opinion of the late Justice Claudio Teehankee, held that the disputed savings belong to the consumers, thus:

"Respondent Meralco's theory is devoid of merit. As correctly stated in the dissenting opinion of the late Chief Justice Claudio Teehankee in the October 22, 1985 resolution of the Supreme Court in SC G.R. No. 63018, the decision of the Board of Energy is ultra vires, hence, null and void. x x x.

"It is a well-settled rule in statutory construction that when the law is clear, it leaves no room for interpretation. The memorandum issued by the Minister of Finance which was made the basis of the decision of the Board of Energy has no legal effect because Sec. 4 of P.D. No. 551 is clear and unequivocal.

x x x x x

"Since the law is clear, what is left to be done by the administrative body or agency concerned is to enforce the law. There is no room for an administrative interpretation of the law. In the instant case, the Board interpreted PD 551 and chose not only to enforce it but to amend and modify the law on the basis of a Memorandum and the authority issued by the Minister of Finance to all grantees of electric-franchises, not Meralco alone, whose rates of return on their rate basis were below the legal allowable level, to either ask for an increased rates or to defer the passing on of benefits under the decree to consumers, until just and reasonable return could be had. This is beyond the authority granted by PD 551 to the Minister of Finance. PD 551 merely ordered the Minister of Finance to issue implementing rules and regulations. He cannot amend or modify the clear mandate of the law. The act therefore of the Minister of Finance was ultra vires, hence, null and void. Considering that said act became the basis of the Board of Energy's decision, it follows that said decision is likewise null and void and the Supreme Court resolution affirming said decision is also null and void having proceeded from a void judgment, hence, cannot be considered as valid judgment that will be a bar to the present action."[9] (Emphasis supplied)

Meralco moved for a reconsideration of the above Decision but was denied by respondent court in its Order of September 10, 1991.

Hence, Meralco's petition for review on certiorari anchored on the following grounds:

"I

RESPONDENT JUDGES ERRED IN HOLDING THAT CIVIL CASE NO. 89-3659 IS NOT BARRED BY PRIOR JUDGMENT.

II

RESPONDENT JUDGES ERRED IN DECLARING NULL AND VOID A RESOLUTION OF THIS

HONORABLE SUPREME COURT.

III

RESPONDENT JUDGES ERRED IN HOLDING THAT THE REMEDY OF DECLARATORY RELIEF WAS STILL AVAILABLE TO PRIVATE RESPONDENTS.

IV

RESPONDENT JUDGES ERRED IN NOT DISMISSING THE PETITION FOR DECLARATORY RELIEF."^[10]

Meralco contends that Civil Case No. Q -89-3659 is already barred by prior judgments, referring to a) this Court's Resolution in G.R. No. 63018 sustaining the BOE's Decision in BOE Case No. 82-198; and b) the Order dated March 10, 1980 of the same Board in BOE Case No. 79-692, both holding that Meralco is authorized to retain its savings realized under P.D. 551. Meralco likewise argues that respondent RTC cannot annul the Resolution of this Court in G.R. No. 63018 considering that trial courts cannot set aside decisions of a superior court. And lastly, Meralco maintains that private respondents can no longer avail of the remedy of an action for declaratory relief in view of the rule that such action should be filed before a violation of the statute occurred.^[11]

In their comment,^[12] private respondents argue that this Court's Resolution in G.R. No. 63018 cannot be a bar to Civil Case No. Q-89-3659 for declaratory relief considering that it did not delve on the essential issue raised in the latter case, i.e., who is entitled to the savings. Further, they claim that public interest would be defeated by the application of res judicata.

The petition is meritorious.

The issue - whether or not Meralco is duly authorized to retain the savings resulting from the reduction of the franchise tax under P.D. No. 551 as long as its rate of return falls below the 12 % allowable rate recognized in this jurisdiction – has long been settled. Thus, the relitigation of the same issue in Civil Case No. Q-89-3659 cannot be sanctioned under the principle of res judicata.

Res judicata means a matter adjudged, a thing judicially acted upon or decided; a thing or matter settled by judgment.^[13] In res judicata, the judgment in the first action is considered conclusive as to every matter offered and received therein, as to any other admissible matter which might have been offered for that purpose, and all other matters that could have been adjudged therein.^[14] For a claim of res judicata to prosper, the following requisites must concur: 1) there must be a final judgment or order; 2) the court rendering it must have jurisdiction over the subject matter and the parties; 3) it must be a judgment or order on the merits; and 4) there must be, between the two cases identity of parties, subject matter and causes of action.^[15]

All the above requisites are extant in the records and thus, beyond dispute.

Re: FIRST REQUISITE - there must be a final judgment:

It is beyond question that this Court's Resolution dated October 22, 1985 in G.R. No. 63018, sustaining the BOE's Decision dated November 25, 1982 in BOE Case No. 82-198 which dismissed PCFI's petition, attained finality on December 4, 1985. As a matter of fact, this Court had long ago issued an Entry of Judgment stating that the said Resolution "became final and executory and is x x x recorded in the Book of Entries of Judgements." Prior thereto, or on March 10, 1980, the BOE's Order in BOE Case No. 79-672 became final when the oppositors therein did not appeal.

Re: SECOND REQUISITE - the court which rendered the final judgment must have jurisdiction over the subject

matter and the parties:

There is no question that the BOE has jurisdiction over the subject matter and the parties herein. Under P.D. No. 1206,[16] The BOE is the agency authorized to "regulate and fix the power rates to be charged by electric companies." [17] As such, it has jurisdiction over Meralco, an electric company, and over the savings it realized under P.D. No. 551. It bears stressing that P.D. No. 551 was passed precisely to enable the grantees of electric franchises to reduce their rates within the reach of consumers. Clearly, the matter on how the disputed savings should be disposed of in order to realize a reduction of rates is within the competence of the BOE.

Re: THIRD REQUISITE - it must be a judgment or order on the merits:

The BOE's Decision in BOE Case No. 82-198 is a judgment on the merits. A judgment is on the merits when it determines the rights and liabilities of the parties based on the disclosed facts, irrespective of formal, technical or dilatory objections. After according both parties the opportunities to be heard, the BOE disposed of the controversy by resolving the rights of the parties under P.D. No. 551. In its Decision, the BOE declared in clear and unequivocal manner that Meralco "has been duly authorized to retain the savings realized under the provisions of P.D. No. 551" and that private respondent PCFI's argument to the contrary is "untenable." The BOE's Decision was upheld by this Court in G.R. No. 63018.

Re: FOURTH REQUISITE - there must be between the two cases identity of parties, subject matter and causes of action:

There is identity of parties between the two cases. BOE Case No. 82-198 was a contest between private respondent PCFI, as petitioner, and Meralco, as respondent. Civil Case No. Q-89-3659 involves the same contenders, except that respondent Edgardo Isip joined PCFI as a plaintiff. But his inclusion as such plaintiff is inconsequential. A party by bringing forward, in a second case, additional parties cannot escape the effects of the principle of res judicata when the facts remain the same. Res judicata is not defeated by a minor difference of parties, as it does not require absolute but only substantial identity of parties.[18]

The subject matters of BOE Case No. 82-198 and Civil Case No. Q-89-3659 are likewise identical since both refer to the savings realized by Meralco from the reduction of the franchise tax under P.D. No. 551. The subject matter of an action refers to the thing, wrongful act, contract or property which is directly involved in the action, concerning which the wrong has been done and with respect to which the controversy has arisen.[19] In both cases, the controversy is how the disputed savings shall be disposed of - whether they shall be retained by Meralco or be passed on to the consumers.

With respect to identity of causes of action, this requisite is likewise present. In both cases, the act alleged to be in violation of the legal right of private respondents is Meralco's retention of the savings it realized under P.D. No. 551. While it is true that BOE Case No. 82-198 is one for specific performance, while Civil Case No. Q-89-3659 is for declaratory relief - in the ultimate - both are directed towards only one relief, i.e., the refund of the disputed savings to the consumers. To seek a court's declaration on who should benefit from the disputed savings (whether Meralco or the consumers) will result in the relitigation of an issue fairly and fully adjudicated in BOE Case No. 82-198.

Clearly, the test of identity of causes of action lies not in the form of an action. The difference of actions in the aforesaid cases is of no moment. The doctrine of res judicata still applies considering that the parties were litigating for the same thing and more importantly, the same contentions.[20] As can be gleaned from the records, private respondents' arguments in Civil Case No. Q-89-3659 bear extreme resemblance with those raised in BOE Case No. 82-198.

Respondent RTC's Decision granting PCFI and Isip's petition for declaratory relief is in direct derogation of the principle of *res judicata*. Twice, it has been settled that Meralco is duly authorized to retain the savings it realized under P.D. No. 551 as long as its rate of return falls below the 12% allowable rate. The pronouncement of the BOE in BOE Case No. 82-198 finding such fact to be "beyond question" is clear and not susceptible of equivocation. This pronouncement was sustained by this Court in G.R. No. 63018. In finding no grave abuse of discretion on the part of the BOE, this Court saw the wisdom of its assailed Decision. Thus, this Court held: "[I]n dismissing the petition for specific performance, the BOE authorized Meralco, in lieu of increasing its rates to get a more reasonable return on investments while at the same time refunding to consumers the benefit of P.D. No. 551, to instead defer the passing on of benefits but without the planned increases. Instead of giving back money to consumers and then taking back the same in terms of increased rates, Meralco was allowed by the BOE to follow the more simplified and rational procedure." [21]

Private respondents now argue that G.R. No. 63018 merely decreed the postponement of the passing of Meralco's savings to the consumers until it could increase its rate charges. On this point, this Court categorically ruled:

"X x x. And finally, as stated by the Solicitor General, if only to put the issue to final rest, BOE's decision authorizing Meralco to retain the savings resulting from the reduction of franchise tax as long as its rate of return falls below the 12% allowable rate is supported by P.D. No. 551, the rules and administrative orders of the Ministry of Finance which had been duly authorized by the decree itself and by directives of the President to carry out the provisions of the decree, and most of all by equitable economic considerations without which the decree would lose its purpose and viability." [22]

Corollarily, let it not be overlooked that the purpose of an action for declaratory relief is to secure an authoritative statement of the rights and obligations of the parties under a statute, deed, contract etc. for their guidance in the enforcement thereof, or compliance therewith, and not to settle issues arising from an alleged breach thereof. It may be entertained only before the breach or violation of the statute, deed, contract etc., to which it refers. [23] The petition gives a practical remedy in ending controversies which have not reached the stage where other relief is immediately available. It supplies the need for a form of action that will set controversies at rest before they lead to repudiation of obligations, invasion of rights, and the commission of wrongs. [24] Here, private respondents brought the petition for declaratory relief long after the alleged violation of P.D. No. 551.

Lastly, we are dismayed by respondent RTC's adherence to the Dissenting Opinion, instead of the Majority Opinion, of the members of this Court in G.R. No. 63018, as well as its temerity to declare a Resolution of this Court "null and void" and "cannot be considered as valid judgment that will be a bar to the present action."

A lower court cannot reverse or set aside decisions or orders of a superior court, especially of this Court, for to do so will negate the principle of hierarchy of courts and nullify the essence of review. A final judgment, albeit erroneous, is binding on the whole world. Thus, it is the duty of the lower courts to obey the Decisions of this Court and render obeisance to its status as the apex of the hierarchy of courts. "A becoming modesty of inferior courts demands conscious realization of the position that they occupy in the interrelation and operation of the integrated judicial system of the nation." [25] "There is only one Supreme Court from whose decisions all other courts should take their bearings," as eloquently declared by Justice J. B. L. Reyes. [26]

Respondent RTC, and for this matter, all lower courts, ought to be reminded that a final and executory decision or order can no longer be disturbed or reopened no matter how erroneous it may be. Although judicial determinations are not infallible, judicial error should be corrected through appeals, not through repeated suits on the same claim. [27] In setting aside the Resolution and Entry of Judgment of this Court in G.R. No. 63018, respondent court grossly violated basic rules of civil procedure.

In fine, we stress that the rights of Meralco under P.D. No. 551, as determined by the BOE and sustained by this Court, have acquired the character of res judicata and can no longer be challenged.

WHEREFORE, the petition is hereby GRANTED. The assailed RTC Decision dated January 16, 1991 and Order dated September 10, 1991 in Civil Case No. Q-89-3659 are REVERSED and SET ASIDE.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., and Carpio, JJ., concur.

[1] Aldovino v. National Labor Relations Commission, 298 SCRA 526 (1998).

[2] Then presided by former Judge Manuel Calanog, Jr..

[3] Rendered by then Judge Tirso Velasco, Pairing Judge in the same Branch.

[4] "WHEREAS, the grantees of electric franchises are unable to reduce their rates due to their high cost of operation;

WHEREAS, there is a need to provide electric current for light, heat and power at a cost within the reach of consumers;

WHEREAS, assistance to the franchise holders by reducing some of their tax and tariff obligations is imperative to attain the above objectives."

[5] "Lowering the Cost to Consumers of Electricity by Reducing the Franchise Tax Payable by Electric Franchise Holders and the Tariff on Fuel Oils for the Generation of Electric Power by Public Utilities."

[6] Rollo, pp. 31-38.

[7] Rollo, pp. 50-52.

[8] Rollo, pp. 60-61.

[9] Rollo, pp. 22-24.

[10] Rollo, pp. 5-6.

[11] Rollo, pp. 6-18.

[12] Rollo, pp. 72-85.

[13] 46 Am Jur § 514.

[14] Manalo v. Court of Appeals, G.R. No. 124204, April 20, 2001.

[15] Sta. Lucia and Development, Inc., v. Cabrigas, G.R. No. 134895, June 19, 2001; Mendiola v. Court of Appeals, G.R. No. 122807, July 5, 1996; Mangoma v. Court of Appeals, 241 SCRA 21 (1995).

[16] Otherwise known as "Creating the Department of Energy," This was amended by Presidential Decree No. 1573.

[17] Section 9 (c) of P.D. No. 1206 as amended by P.D. No. 1573.

[18] Nery v. Leyson, 339 SCRA 232 (2000) citing Sempio v. Court of Appeals, 284 SCRA 580 (1998);

Municipality of San Juan, Metro Manila v. Court of Appeals, 279 SCRA 711 (1997); Mendiola v. Court of Appeals, 258 SCRA 492 (1996).

[19] Regalado, Remedial law Compendium, Sixth Revised Edition, 1997, p. 20.

[20] Mendiola v. Court of Appeals, *supra*.

[21] Rollo, p.60.

[22] Rollo, p.61.

[23] Rosello-Bentir v. Leanda, 330 SCRA 591 (2000).

[24] Herrera, Remedial Law III, Revised Edition, 1996, pp. 124-125.

[25] Conducto v. Judge Monzon A.M. MTJ-98-1147, July 2,1998; Golangco v. Villanueva, 278 SCRA 414 (1997); People v. Vera, 65 Phil. 56 (1937).

[26] Albert v. Court of First Instance of Manila 23 SCRA 948 (1968).

[27] Salud v. Court of Appeals, 233 SCRA 384 (1994).

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