

ANTONIO A. MECANO, PETITIONER, VS. COMMISSION ON AUDIT, RESPONDENT.

G.R. No. 103982. December 11, 1992

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

Antonio A. Mecano, through a petition for certiorari, seeks to nullify the decision of the Commission on Audit (COA, for brevity) embodied in its 7th Indorsement, dated January 16, 1992, denying his claim for reimbursement under Section 699 of the Revised Administrative Code (RAC), as amended, in the total amount of P40,831.00.

Petitioner is a Director II of the National Bureau of Investigation (NBI). He was hospitalized for cholecystitis from March 26, 1990 to April 7, 1990, on account of which he incurred medical and hospitalization expenses, the total amount of which he is claiming from the COA.

On May 11, 1990, in a memorandum to the NBI Director, Alfredo S. Lim (Director Lim, for brevity), he requested reimbursement for his expenses on the ground that he is entitled to the benefits under Section 699[1] of the RAC, the pertinent provisions of which read:

"Sec. 699. Allowances in case of injury, death, or sickness incurred in performance of duty. -- When a person in the service of the national government or in the service of the government of a province, city, municipality or municipal district is so injured in the performance of duty as thereby to receive some actual physical hurt or wound, the proper Head of Department may direct that absence during any period of disability thereby occasioned shall be on full pay, though not more than six months, and in such case he may in his discretion also authorize the payment of the medical attendance, necessary transportation, subsistence and hospital fees of the injured person. Absence in the case contemplated shall be charged first against vacation leave, if any there be.

x x x x x

"In case of sickness caused by or connected directly with the performance of some act in the line of duty, the Department head may in his discretion authorize the payment of the necessary hospital fees."

Director Lim then forwarded petitioner's claim, in a 1st Indorsement dated June 22, 1990, to the Secretary of Justice, along with the comment, bearing the same date, of Gerarda Galang, Chief, LED of the NBI, "recommending favorable action thereof". Finding petitioner's illness to be service-connected, the Committee on Physical Examination of the Department of Justice favorably recommended the payment of petitioner's claim.

However, then Undersecretary of Justice Silvestre H. Bello III, in a 4th Indorsement dated November 21, 1990, returned petitioner's claim to Director Lim, having considered the statements of the Chairman of the COA in its 5th Indorsement dated 19 September 1990, to the effect that the RAC being relied upon was repealed by the Administrative Code of 1987.

Petitioner then re-submitted his claim to Director Lim, with a copy of Opinion No. 73, S. 1991[2] dated April 26,

1991 of then Secretary of Justice Franklin M. Drilon (Secretary Drilon, for brevity) stating that "the issuance of the Administrative Code did not operate to repeal or abrogate in its entirety the Revised Administrative Code, including the particular Section 699 of the latter".

On May 10, 1991, Director Lim, under a 5th Indorsement transmitted anew Mecano's claim to then Undersecretary Bello for favorable consideration. Under a 6th Indorsement, dated July 2, 1991, Secretary Drilon forwarded petitioner's claim to the COA Chairman, recommending payment of the same. COA Chairman Eufemio C. Domingo, in his 7th Indorsement of January 16, 1992, however, denied petitioner's claim on the ground that Section 699 of the RAC has been repealed by the Administrative Code of 1987, solely for the reason that the same section was not restated nor re-enacted in the Administrative Code of 1967. He commented, however, that the claim may be filed with the Employees' Compensation Commission, considering that the illness of Director Mecano occurred after the effectivity of the Administrative Code of 1987.

Eventually, petitioner's claim was returned by Undersecretary of Justice Eduardo Montenegro to Director Lim under a 9th Indorsement dated February 7, 1992, with the advice that petitioner "elevate the matter to the Supreme Court if he so desires".

On the sole issue of whether or not the Administrative Code of 1987 repealed or abrogated Section 699 of the RAC, this petition was brought for the consideration of this Court.

Petitioner anchors his claim on Section 699 of the RAC, as amended, and on the aforementioned Opinion No. 73, S. 1991 of Secretary Drilon. He further maintains that in the event that a claim is filed with the Employees' Compensation Commission, as suggested by respondent, he would still not be barred from filing a claim under the subject section. Thus, the resolution of whether or not there was a repeal of the Revised Administrative Code of 1917 would decide the fate of petitioner's claim for reimbursement.

The COA, on the other hand, strongly maintains that the enactment of the Administrative Code of 1987 (Exec. Order No. 292) operated to revoke or supplant in its entirety the Revised Administrative Code of 1917. The COA claims that from the "whereas" clauses of the new Administrative Code, it can be gleaned that it was the intent of the legislature to repeal the old Code. Moreover, the COA questions the applicability of the aforesaid opinion of the Secretary of Justice in deciding the matter. Lastly, the COA contends that employment-related sickness, injury or death is adequately covered by the Employees' Compensation Program under P.D. 626, such that to allow simultaneous recovery of benefits under both laws on account of the same contingency would be unfair and unjust to the Government.

The question of whether a particular law has been repealed or not by a subsequent law is a matter of legislative intent. The lawmakers may expressly repeal a law by incorporating therein a repealing provision which expressly and specifically cites the particular law or laws, and portions thereof, that are intended to be repealed.[3] A declaration in a statute, usually in its repealing clause, that a particular and specific law, identified by its number or title, is repealed is an express repeal; all others are implied repeals.[4]

In the case of the two Administrative Codes in question, the ascertainment of whether or not it was the intent of the legislature to supplant the old Code with the new Code partly depends on the scrutiny of the repealing clause of the new Code. This provision is found in Section 27, Book VII (Final Provisions) of the Administrative Code of 1987 which reads:

"Sec. 27. Repealing Clause. -- All laws, decrees, orders, rules and regulations, or portions thereof, inconsistent with this Code are hereby repealed or modified accordingly."

The question that should be asked is: What is the nature of this repealing clause? It is certainly not an express

repealing clause because it fails to identify or designate the act or acts that are intended to be repealed.[5] Rather, it is an example of a general repealing provision, as stated in Opinion No. 73, S. 1991. It is a clause which predicates the intended repeal under the condition that a substantial conflict must be found in existing and prior acts. The failure to add a specific repealing clause indicates that the intent was not to repeal any existing law, unless an irreconcilable inconsistency and repugnancy exist in the terms of the new and old laws.[6] This latter situation falls under the category of an implied repeal.

Repeal by implication proceeds on the premise that where a statute of later date clearly reveals an intention on the part of the legislature to abrogate a prior act on the subject, that intention must be given effect.[7] Hence, before there can be a repeal, there must be a clear showing on the part of the lawmaker that the intent in enacting the new law was to abrogate the old one. The intention to repeal must be clear and manifest;[8] otherwise, at least, as a general rule, the later act is to be construed as a continuation of, and not a substitute for, the first act and will continue so far as the two acts are the same from the time of the first enactment.[9]

There are two categories of repeal by implication. The first is where provisions in the two acts on the same subject matter are in an irreconcilable conflict, the later act to the extent of the conflict constitutes an implied repeal of the earlier one. The second is if the later act covers the whole subject of the earlier one and is clearly intended as a substitute, it will operate to repeal the earlier law.[10]

Implied repeal by irreconcilable inconsistency takes place when the two statutes cover the same subject matter; they are so clearly inconsistent and incompatible with each other that they cannot be reconciled or harmonized; and both cannot be given effect, that is, that one law cannot be enforced without nullifying the other.[11]

Comparing the two Codes, it is apparent that the new Code does not cover nor attempt to cover the entire subject matter of the old Code. There are several matters treated in the old Code which are not founded the new Code, such as the provisions on notaries public, the leave law, the public bonding law, military reservations, claims for sickness benefits under Section 699, and still others.

Moreover, the COA failed to demonstrate that the provisions of the two Codes on the matter of the subject claim are in an irreconcilable conflict. In fact, there can be no such conflict because the provision on sickness benefits of the nature being claimed by petitioner has not been restated in the Administrative Code of 1987. However, the COA would have us consider that the fact that Section 699 was not restated in the Administrative Code of 1987 meant that the same section had been repealed. It further maintained that to allow the particular provisions not restated in the new Code to continue in force argues against the Code itself. The COA anchored this argument on the whereas clause of the 1987 Code, which states:

"WHEREAS, the effectiveness of the Government will be enhanced by a new Administrative Code which incorporates in a unified document the major structural, functional and procedural principles and rules of governance; and

x x x x x"

It argues, in effect, that what is contemplated is only one Code -- the Administrative Code of 1987. This contention is untenable.

The fact that a later enactment may relate to the same subject matter as that of an earlier statute is not of itself sufficient to cause an implied repeal of the prior act, since the new statute may merely be cumulative or a continuation of the old one.[12] What is necessary is a manifest indication of legislative purpose to repeal.[13]

We come now to the second category of repeal -- the enactment of a statute revising or codifying the former laws on the whole subject matter. This is only possible if the revised statute or code was intended to cover the whole

subject to be a complete and perfect system in itself. It is the rule that a subsequent statute is deemed to repeal a prior law if the former revises the whole subject matter of the former statute.[14] When both intent and scope clearly evince the idea of a repeal, then all parts and provisions of the prior act that are omitted from the revised act are deemed repealed.[15] Furthermore, before there can be an implied repeal under this category, it must be the clear intent of the legislature that the later act be the substitute to the prior act.[16]

According to Opinion No. 73, S. 1991 of the Secretary of Justice, what appears clear is the intent to cover only those aspects of government that pertain to administration, organization and procedure, understandably because of the many changes that transpired in the government structure since the enactment of the RAC decades of years ago. The COA challenges the weight that this opinion carries in the determination of this controversy inasmuch as the body which had been entrusted with the implementation of this particular provision has already rendered its decision. The COA relied on the rule in administrative law enunciated in the case of *Sison vs. Pangramuyen*[17] that in the absence of palpable error or grave abuse of discretion, the Court would be loathe to substitute its own judgment for that of the administrative agency entrusted with the enforcement and implementation of the law. This will not hold water. This principle is subject to limitations. Administrative decisions may be reviewed by the courts upon a showing that the decision is vitiated by fraud, imposition or mistake.[18] It has been held that Opinions of the Secretary and Undersecretary of Justice are material in the construction of statutes in *pari materia*. [19]

Lastly, it is a well-settled rule of statutory construction that repeals of statutes by implication are not favored.[20] The presumption is against inconsistency and repugnancy for the legislature is presumed to know the existing laws on the subject and not to have enacted inconsistent or conflicting statutes.[21]

This Court, in a case, explains the principle in detail as follows: "Repeals by implication are not favored, and will not be decreed unless it is manifest that the legislature so intended. As laws are presumed to be passed with deliberation with full knowledge of all existing ones on the subject, it is but reasonable to conclude that in passing a statute it was not intended to interfere with or abrogate any former law relating to some matter, unless the repugnancy between the two is not only irreconcilable, but also clear and convincing, and flowing necessarily from the language used, unless the later act fully embraces the subject matter of the earlier, or unless the reason for the earlier act is beyond peradventure renewed. Hence, every effort must be used to make all acts stand and if, by any reasonable construction, they can be reconciled, the later act will not operate as a repeal of the earlier.[22]

Regarding respondent's contention that recovery under this subject section shall bar the recovery of benefits under the Employees' Compensation Program, the same cannot be upheld. The second sentence of Article 173, Chapter II, Title II (dealing on Employees' Compensation and State Insurance Fund), Book IV of the Labor Code, as amended by P.D. 1921, expressly provides that "the payment of compensation under this Title shall not bar the recovery of benefits as provided for in Section 699 of the Revised Administrative Code x x x whose benefits are administered by the system (meaning SSS or GSIS) or by other agencies of the government."

WHEREFORE, premises considered, the Court resolves to GRANT the petition; respondent is hereby ordered to give due course to petitioner's claim for benefits. No costs.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, and Melo, JJ., concur.

Gutierrez, Jr., J., in the result.

[1] As amended by R.A. No. 1232 dated June 7, 1955.

[2] Rollo, pp. 26-30.

[3] School Dist. No. 45 vs. Board of County of Comira, 141 Kan. 108.

[4] AGPALO, STATUTORY CONSTRUCTION 289 (1986).

[5] Iloilo Palay and Corn Planters Association, Inc. vs. Feliciano, 13 SCRA 377 (1965).

[6] CRAWFORD, CONSTRUCTION OF STATUTE 631 (1940 ed.).

[7] Posadas vs. National City Bank, 296 U.S. 497, 80 L. Ed. 351 (1935).

[8] Maceda vs. Macaraig, 197 SCRA 771 (1991).

[9] Supra, note 7.

[10] Supra, note 4.

[11] Villegas vs. Subido, 41 SCRA 190 (1971).

[12] Valera vs. Tuason, 80 Phil. 823 (1948).

[13] Jalandoni vs. Endaya, 55 SCRA 261 (1974).

[14] People vs. Almuete, 69 SCRA 410, 414 (1976).

[15] People vs. Benuya, 61 Phil. 208 (1916).

[16] Supra, note 9.

[17] 84 SCRA 364 (1978).

[18] Jaculina vs. National Police Commission, 200 SCRA 489 (1991); Greenhills Mining Co. vs. Office of the President, 163 SCRA 350 (1988).

[19] Philippine Global Communications, Inc. vs. Relova, 145 SCRA 385 (1986).

[20] National Power Corporation vs. Hon. Zain B. Angas, G.R. Nos. ???0225-26, May 8, 1992; Maceda vs. Macaraig, 197 SCRA 771 (1991); Maddumba vs. Government Service Insurance System, 182 SCRA 281 (1990); Larga vs. Ranada, Jr., 164 SCRA 18 (1988); De Jesus vs. People, 120 SCRA 760 (1983).

[21] U.S. vs. Palacio, 33 Phil. 208 (1916).

[22] Smith, Bell & Co. vs. Estate of Maronilla, 41 Phil. 557 (1916).

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