

USAFFE VETERANS ASSOCIATION, INC., PLAINTIFF AND APPELLANT, VS. THE TREASURER OF THE PHILIPPINES, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 10500. June 30, 1959

Ponente: BENGZON, J.

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BENGZON, J.:

The central issue in this litigation concerns the validity of the Romulo-Snyder Agreement (1950) whereby the Philippine Government undertook to return to the United States Government in ten annual installments, a total of about 35-million dollars advanced by the United States to, but unexpended by, the National Defense Forces of the Philippines.

In October 1954, the Usaffe Veterans Associations Inc., hereafter called Usaffe Veterans, for itself and for many other Filipino veterans of World War II, ex-members of the United States Armed Forces in the Far East (USAFFE) prayed in its complaint before the Manila court of first instance that said Agreement be annulled, that payments thereunder be declared illegal and that defendants as officers of the Philippine Republic be restrained from disbursing any funds in the National Treasury in pursuance of said Agreement. Said Usaffe Veterans further asked that the moneys available, instead of being remitted to the United States, should be turned over to the Finance Service of the Armed Forces of the Philippines for the payment of all pending claims of the veterans represented by plaintiff.

The complaint rested on plaintiff's three propositions: first, that the funds to be "returned" under the Agreement were funds appropriated by the American Congress for the Philippine Army, actually delivered to the Philippine Government and actually owned by the said Government; second, that U. S. Secretary Snyder of the Treasury, had no authority to retake such funds from the P, I, Government; and third, that Philippine Foreign Secretary Carlos P. Romulo had no authority to return or promise to return the aforesaid sums of money through the so-called Romulo-Snyder Agreement.

The defendants moved to dismiss, alleging Governmental immunity from suit. But the court required an answer, and then heard the case on the merits. Thereafter, it dismissed the complaint, upheld the validity of the Agreement and dissolved the preliminary injunction it had previously issued. The plaintiff appealed.

On July 26, 1941, foreseeing the War in the Pacific, President Franklin D. Roosevelt, called into the service of the Armed Forces of the United States, for the duration of the emergency, all the organized military forces of the Philippine Commonwealth. His order was published here by Proclamation No. 740 of President Quezon on August 10, 1941. In October 1941, by two special orders, General Douglas MacArthur, Commanding General of the United States Army Forces in the Far East (known as USAFFE) placed under his command all the Philippine Army units including the Philippine Constabulary, about 100,000 officers and soldiers.

For the expenses incident to such incorporation, mobilization and activities, the Congress of the United States provided in its Appropriation Act of December 17, 1941 (Public Law No. 353, 77th Congress) as follows:

"For all expenses necessary for the mobilization, operation and maintenance of the Army of the Philippines, including expenses connected with calling into the service of the armed forces of the United States the organized military forces of the Government of the Commonwealth of the Philippines, * * * but shall be expended and accounted for in the manner prescribed by the President of the United States, \$269,000.00; to remain available until June 30, 1943, which shall be available for payment to the Government of the Commonwealth of the Philippines upon its written request, either in advance of or in reimbursement for all or any part of the estimated or actual costs, as authorized by the Commanding General, United States Army Forces in the Far East, of necessary expenses for the purposes aforesaid, * * *." (Italics Ours.)

In subsequent Acts, the U. S. Congress appropriated moneys in language identical to the above: \$28,313,000.00 for the fiscal year ending June 30, 1943; and \$100,000,000 each year, for the fiscal years ending June 30, 1944, June 30, 1945, and June 30, 1946[1] The last pertinent appropriation was Public Law No. 301 (79th Congress) known as the Rescission Act. It simply set aside 200 million dollars for the Army of the Philippines for the fiscal year ending June 30, 1946.

Now, pursuant to the power reserved to him under Public Law 353 above-quoted, President Roosevelt issued on January 3, 1942, his Executive Order No. 9011 prescribing partly as follows:

"2. (a) Necessary expenditures from funds in the Philippine Treasury for the purposes authorized by the Act of December 17, 1941, will be made by disbursing officers of the Army of the Philippines on the approval of authority of the Commanding General, United States Army Forces in the Far East, and such purposes as he may deem proper, and his determination thereon shall be final and conclusive upon the accounting officers of the Philippine Government, and such expenditures will be accounted for in accordance with procedures established by Philippine Commonwealth Laws and regulations." (Italics Ours.)

Out of the total amounts thus appropriated by the United States Congress as above itemized, P570,863,000.00 was transferred directly to The Philippine Armed Forces by means of vouchers which stated "Advance of Funds under Public Law 353-77th Congress and Executive Order No. 9011". This amount was used (mostly) to discharge in the Philippine Islands the monetary obligations assumed by the U. S. Government as a result of the induction of the Philippine Armed Forces into the U. S. Army, and of its operations beginning in 1941. Part of these obligations consisted in the claims of Filipino USAFFE soldiers for arrears in pay and in the charges for supplies used by them and the guerrillas.

Of the millions so transferred, there remained unexpended and uncommitted in the possession of the Philippine Armed Forces as of December 01, 1949, about 35 million dollars. As at that time, the Philippine Government badly needed funds for its activities, President Quirino, through Governor Miguel Cuaderno of the Central Bank proposed to the corresponding officials of the U. S. Government the retention of the 35-million dollars as a loan, and for its repayment in ten annual installments. After protracted negotiations the deal was concluded, and the Romulo-Snyder Agreement was signed in Washington on November 6, 1950, by the then Philippine Secretary of Foreign Affairs, Carlos P. Romulo, and the then American Secretary of the Treasury, John W. Snyder. Principal stipulation therein was this paragraph:

"3. The Government of the Republic of the Philippines further agrees to pay the dollar amount payable hereunder to the Secretary of the Treasury of the United States in ten annual installments, the first nine payments to be in the amount of P3,500,000.00 and the final residual payment' to be in the amount determined by deducting the total of the previous principal payments from the total amount of dollars to be paid to the Secretary of the Treasury of the United States, the latter amount to be determined as provided in Article II hereof. * * *."

It should be added that the agreement, made on the basis of the parties' belief that 35-million was the outstanding balance, provided in its article II for an audit by appropriate officers to compute the exact amount due.

In compliance with the Agreement, this Government has appropriated by law and paid to the United States up to and including 1954, yearly installments totalling P33,187,663.24.

There is no reason to doubt that subsequent budgets failed to make the corresponding appropriations for other installments.

In this appeal, the Usaffe Veterans reiterated with extended arguments, their basic propositions. They insist: first, the money delivered by the U. S. to the Armed Forces of the Philippine Island were straight payments for military services; ownership thereof vested in the Philippine Government upon delivery, and consequently, there was nothing to return, nothing to consider as a loan; and second, the Romulo-Snyder Agreement was void because there was no loan to be repaid and because it was not binding on the Philippine Government for lack of authority of the officers who concluded the same.

With regard to the first point, it must be remembered that the first Congressional Act of December 17, 1941 (Public Law No. 353) appropriating \$269-million-expressly said the amount "shall be available for payment to the Government of the Commonwealth of the Philippines upon its written request, either in advance of or in reimbursement for all or any part of the estimated or actual costs" of operation, mobilization and maintenance of the Philippine Army. Note carefully, the money is to be handed to the Philippine Government either in advance of expenditures or in reimbursement thereof. AH the vouchers signed upon receipt of the money state clearly, "Advance of funds under Public Law 353-7th Congress and Executive Order No. 9011".

In any system of accounting, advances of funds for expenditures contemplate disbursements to be reported, and credited if approved, against such advances, the unexpended sums to be returned later. In fact, the Congressional law itself required accounting "in the manner prescribed by the President of the U.S." and said President in his Executive Order No. 9011, outlined the procedure whereby advanced funds shall be accounted for. Furthermore, it requires as a condition sine qua non that all expenditures shall first be approved by the Commanding-General, United States Army Forces in the Far East.

Now, these ideas of "funds advanced" to meet such expenditures of the Philippine Army as may be approved by the USAFFE Commanding-General, in connection with the requirement of accounting therefor evidently contradict appellant's thesis that the moneys represented straight payments to the Philippine Government for its armed services, and passed into the absolute control of such Government.

In fact, the respective army officers of both nations,[2] who are presumed to know their business, have consistently regarded the money as funds advanced, to be subsequently accounted for—which means submission of expenditures, and if approved, return of unexpended balance.

Now then, it is undeniable that upon a final rendition of accounts by the Philippine Government, a superabundant resulted of at least 35 million dollars in favor of the U.S. Instead of returning such amount in one lump sum, our Executive Department arranged for its repayment in ten annual installments. Prima facie such arrangement should raise no valid objection, given the obligation to return—which we know exists.

Yet plaintiff attempts to block such repayment because many alleged claims of veterans have not been processed and paid, December 31, 1949, having been fixed as the deadline for the presentation and/or payment of such claims. Plaintiff obviously calculates that if the return is prevented and the money kept here, it might manage to persuade the powers-that-be to extend the deadline anew. Hence the two-pronged attack: (a) no obligation to repay; (b) the officers who promised to repay had no authority to bind this Government.

The first ground has proved untenable.

On the second, there is no doubt that President Quirino approved the negotiations. And he had power to contract

budgetary loans under Republic Act No. 213, amending Republic Act No. 16. The most important argument, however, rests on the lack of ratification of the Agreement by the Senate of the Philippines to make it binding on this Government. On this matter, the defendants explain as follows:

"That the agreement is not a 'treaty' as that term is used in the Constitution, is conceded. The agreement was never submitted to the Senate for concurrence (Art. VII, Sec. 10 (7)). However, it must be noted that a treaty is not the only form that an international agreement may assume. For the grant of the treaty-making power to the Executive and the Senate does not exhaust the power of the government over international relations. Consequently, executive agreements may be entered into with other" states and are effective even without the concurrence of the Senate (Sinco, Philippine Political Law, 10th ed., 303; Tañada and Fernando, Constitution of the Philippines, 4th ed., Vol. II, 1050). It is observed in this connection that from the point of view of international law, there is no difference between treaties and executive agreements in their binding effect upon states concerned as long as the negotiating functionaries have remained within their powers (Hackworth, Digest of International Law, Vol. 5, 395, citing U. S. vs. Belmont, 301 U. S. 342, State of Russia vs. National City Bank of New York, 69 F. (2d) 44; United States vs. Pink, 315 U. S. 203; Altman & Co., vs. United States, 224 U. S. 583. See also McDougal and Lans, "Treaties and Executive Agreements 54 Yale Law Journal 181, 318, et seq.; and Sinco; Op. cit. 305) 'The distinction between so-called executive agreements' and 'treaties' is purely a constitutional one and has no international legal significance' (Research in International Law, Draft Convention on the Law of Treaties (Harvard Law School), Comment, 29 Am. J. Int.) Law Supp. 653, 897. See also Hackworth, op/cit. 391).

"There are now various forms of such pacts or agreements entered into by and between sovereign states which do not necessarily come under the strict sense of a treaty and Which do not require ratification or consent of the legislative body of the State, but nevertheless, are considered valid international agreements. In a survey of the practice of States made by Harvard Research in the Draft Convention in the Law of Treaties (1935, pp. 711-713) it has been shown that there had been more executive agreements entered into by States than treaties (Hudson, International Legislation, I, p. ixii-xcvii).

"In the leading case of Altman vs. U. S., 224, U. S. 583, it was held that Jan international compact negotiated between the representative of two sovereign nations and made in the name and or behalf of the contracting parties and dealing with important commercial relations between the two countries, is a treaty both internationally although, as an executive agreement it is not technically a treaty requiring the advice and consent of the Senate. (Herbert Briggs, The Law of Nations, 1947 ed., p. 489). "Nature of Executive Agreements"

"Executive Agreements fall into two classes: (1) agreements made purely as executive acts affecting external relations and independent of or without legislative authorization, which may be termed as presidential agreements, and (2) agreements entered into in pursuance of acts of Congress, which have been designated as Congressional-Executive Agreements (Sinco, supra, 304; Hackworth, supra, 390; McDougal and Lans, supra, 204-205; Hyke, International Law, 2nd ed., Vol. II, 1406; et seq.)

"The Romulo-Snyder Agreement may fall under any of these two classes, for precisely on September 18, 1946, Congress of the Philippines specifically authorized the. President of the Philippines to obtain such loans

"Even granting, arguendo, that there was no legislative authorization, it is hereby maintained that the Romulo-Snyder Agreement was legally and validly entered into to conform to the second category, namely, 'agreements entered into purely as executive acts without legislative authorization/ This second category usually includes money agreements relating to the settlement of pecuniary claims of citizens. It may be said that this method of settling such claims has come to be the usual way of dealing with matters of this kind (Memorandum of the Solicitor of the Department of State (Nielson) sent to Senator Lodge by the Under-Secretary of State (Philip), August 23, 1922, MS Dept. of State, file 711.00/98a)."

Such considerations seem persuasive; indeed, the Agreement was not submitted to the U.S. Senate either; but we do not stop to check the authorities above listed nor test the conclusions derived therefrom in order to render a definite pronouncement, for the reason that our Senate Resolution No. 15[3] practically admits the validity and binding force of such Agreement. Furthermore, the acts of Congress Appropriating funds for the yearly installments "necessary to comply with such Agreements constitute a ratification thereof, which places the question of validity out of the Court's reach, no constitutional principle having been invoked to restrict Congress' plenary power to appropriate funds—loan or no loan.

In conclusion, plaintiff, to say the least, failed to make a clear case for the relief demanded; its petition was, therefore, properly denied. Judgment affirmed.

Paras, C. J., Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, and Barrera, JJ., concur.

[1] Public Laws 649 (77th Congress), 108 (78th Congress), 374 (78th Congress), and 126 (79th Congress).

[2] The Commanding General, United States Forces Philippines-Ryukus Command and the Chief of Staff, Philippine Army. See their agreements of June 30, 1948 and July 29, 1949.

[3] Dated May 19, 1954.

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