

QUINTIN RIVERA, ET AL., PETITIONERS AND APPELLEES, VS. HON. CIPRIANO B. COLAGO, ET AL., RESPONDENTS AND APPELLANTS.

G.R. No. 12323. February 24, 1961

Ponente: DIZON, J.

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DIZON, J.:

Appeal from the decision of the Court of First Instance of Laguna of the following tenor:

"PREMISES CONSIDERED, this Court finds and so declares that the petitioners herein are entitled to the relief sought for and accordingly this Court orders the respondent City Mayor, City Treasurer and the members of the Municipal Board, all of the City of San Pablo, to pay, within 90 days from the finality of this judgment, to the petitioners herein the amounts to which they are respectively entitled by way of differential salaries covering the period from August 4, 1952 to May 14, 1953 as shown in Exhibits "A", "B", "C" and "D" as corrected.

"The claim of petitioners for attorney's fees and damages is hereby DENIED for lack of merit.

"After the obligation to the herein petitioners shall have been duly complied with by the respondents, the latter are advised in order to avoid further litigation on the matter, to pay likewise the differential salaries of all other employees who are entitled to the same but have not joined the herein petition.

"Let copy of this Decision be personally served upon all the respondents herein.

"So ordered. Without pronouncement as to costs."

Appellees commenced this action for mandamus against the City Mayor, the City Treasurer and the Municipal Board of the City of San Pablo, Laguna, to compel them to pay the difference between their respective salaries and that provided by the Minimum Wage Law (Republic Act No. 602) for the period from August 4, 1952 to May 14, 1953, and to recover damages, attorney's fees and costs of suit. Appellants' main defenses were, firstly, that their failure to provide for the payment of the differential salaries was due to lack of funds, and secondly, that mandamus does not lie against them for the reason that they had not unlawfully neglected to comply with their duty in connection with appellees' claim.

It is not denied that appellees were employees of the City of San Pablo during the period from August 4, 1952 to May 14, 1953 at salaries lower than P120.00 monthly; that they are covered by the provisions of Republic Act No. 602, commonly known as the Minimum Wage Law, which took effect on August 4, 1952; that the City of San Pablo implemented the provisions of the Act referred to only on May 15, 1953; that appellees have not received to this date differential salaries in the amounts stated in Exhibits "A", "B", "C" and "D"; and lastly, that certain officials of the City of San Pablo had been paid their differential salaries prior to the commencement of this action.

As correctly stated by the lower court, the issue involved herein is whether or not, upon the facts of the case, mandamus lies against appellants. This question, in our opinion, has been decided—at least in principle—in the

affirmative in *Bernardo et al. vs. Pascual, et al.*, 93 Phil., 345; 49 Off. Gaz., No. 6, p. 2261; and *Guerrero, et al. vs. Carbonel, et al.*, G.R. No. L-7180, "March 15, 1955. Both cases were for mandamus to compel payment of increased salaries pursuant to the provisions of Republic Act No. 732. In granting the writ this Court said, *inter alia*, that the therein respondents, as government officials, were duty bound to implement the provisions of Act No. 732 by appropriating the necessary amounts for the payment of the increased salaries of the therein petitioners, and that such appropriation could not be left at their discretion nor could they avoid compliance with their duty by invoking lack of funds. While in said cases there was proof of proper certification of availability of funds—which is lacking in the present—we believe that the principle laid down in the aforesaid cases applies to the present considering the circumstance that other employees of the same city had been paid their differential salaries prior to the commencement of the present action. Were we to consider a claim of lack or insufficiency of funds as sufficient to justify refusal to implement the provisions of Act 732, the latter would become futile, with its purpose defeated.

Considering that the provisions of the law invoked by appellees are mandatory, and it appearing that they have no other remedy in the ordinary course of law we are of the opinion, and so hold, that appellants may be compelled by mandamus to comply with their ministerial duty to appropriate the necessary funds for the payment of the differential salaries respectively claimed by appellees.

Wherefore, the appealed decision being in accordance with the facts and the law, the same is hereby affirmed.

Bengzon, Acting C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Paredes, JJ., concur.

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