

SOFRONIO T. UNTALAN, PETITIONER AND APPELLANT, VS. HON. VICENTE G. GELLA, IN HIS CAPACITY AS TREASURER OF THE PHILIPPINES AND HON. PEDRO M. GIMENEZ, IN HIS CAPACITY AS AUDITOR G...

G.R. No. 13296. May 25, 1960

Ponente: PADILLA, J.

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PADILLA, J.:

Sofronio T. Untalan was a commissioned officer in the service of the Philippine Constabulary at the outbreak of the war on 8 December 1941. On 10 March 1953, while still in the service of the Philippine Constabulary, he was convicted by the Court of First Instance of Laguna of the crime of malversation of public funds and sentenced to indemnify the Government in the sum of P17,863.59. After the enactment of Republic Act No. 897 on 20 June 1953, he filed a claim for back pay with the Office of the Treasurer of the Philippines. After processing, his claim was approved in the amount of P20,510.43 and the corresponding certificate of indebtedness (No. 1681), redeemable in thirty years, was issued by the Treasurer of the Philippines in his favor. Later on, in view of the opinion of the Secretary of Justice rendered on 27 September 1955 holding that officers and enlisted men of the Armed Forces of the Philippines, who had been in the service of the Government on 8 December 1941, were entitled to back pay under the provisions of Republic Act No. 304, and the corresponding certificate of indebtedness issued therefor was redeemable in ten years (op. No. 319, s. 1955, Annex A), he sought the conversion of his claim under the provisions of the last mentioned Republic Act so that the certificate of indebtedness previously issued to him may be redeemed in ten years. After his claim had been processed by the Finance Office of the Philippine Constabulary, it was found that he was entitled to the sum of P15,199.58 as back pay from 1 January 1942 to 15 February 1945, redeemable in ten years. On 8 November 1955 the Finance Office forwarded his claim papers to the Treasurer of the Philippines for appropriate action, with the information, however, that he had been convicted of malversation of public funds and sentenced to indemnify the Government in the sum of P17,863.59. On 7 December 1955 the Treasurer of the Philippines indorsed the matter to the Auditor General requesting authority to withhold payment of the claimant's back pursuant to the provisions of section 624 of the Revised Administrative Code. On 27 March 1956 the Auditor General granted the request of the Treasurer of the Philippines. The claimant appealed to the President. The latter affirmed the decision of the Auditor General.

On 25 July 1957 the claimant filed a petition in the Court of First Instance of Manila praying for a declaration that the authority granted by the Auditor General to the Treasurer of the Philippines to withhold the proceeds of his back pay under the provisions of Republic Act No. 304, as amended, is contrary to law and hence null and void, and for a writ of mandamus to compel the Treasurer of the Philippines to issue to him (the petitioner) the back pay certificate of indebtedness and to pay him the sum due him as partial redemptions, to which he claims to be entitled under the provisions of Republic Act No. 304, as amended, and the additional sum of P2,500 as attorney's fees, the costs of the suit, and for other just and equitable relief (Case No. 33214).

After issues had been joined, the parties had submitted the case for judgment on the pleadings and filed their

memoranda, on 4 December 1957 the Court entered an order denying the writ prayed for. The petitioner has appealed.

The appellant claims that under section 5 of Republic Act No. 304, the proceeds of his back pay could not be withheld by the appellees, whereas the latter contend that under the provisions of section 624 of the Revised Administrative Code, the proceeds of the appellant's back pay could be withheld to compensate his indebtedness to the Government.

There is no controversy as to the right of the appellant to his back pay under and pursuant to the provisions of Republic Act No. 897. The only dispute is whether such back pay to be acknowledged and attested to by the Government in a certificate of indebtedness to be issued by the respondent Treasurer as provided by law, may be withheld by the said Treasurer to settle, compensate or pay fully or partially an indebtedness or obligation owed to the Government by the officer or employee entitled to such back pay.

Section 5 of Republic Act No. 304, in part provides that:

The salaries or wages or certificates of indebtedness herein provided, shall be exempt from attachment or levy, except for the payment of taxes or obligations for which the particular officers or employees may be directly liable as provided in this Act. * * *

The appellant contends that on 18 June 1948, the date of the approval of Republic Act No. 304, he had no subsisting obligation for which he may directly be liable to the Government, the judgment of conviction for malversation of public funds and the indemnity to the Government in the sum of P17,863.69 imposed upon him having been rendered on 10 March 1953. The appellees claim that the appellant's indebtedness is an obligation "for which the particular officers or employees may be directly liable as provided in this Act," and that for that reason his back pay may be withheld and applied in satisfaction of his indebtedness.

The first proviso in section 2 of Republic Act No. 304, as amended by Republic Acts Nos. 800 and 897, is as follows:

* * * provided that the face value of such certificate of indebtedness shall not exceed the amount that the applicant may need for the payment of (1) obligations subsisting at the time of the approval of this amendatory Act for which the applicant may directly be liable to the Government or to any of its branches or instrumentalities, or the corporations owned or controlled by the Government, or to any citizen of the Philippines, or to any association or corporation organized under the laws of the Philippines, who may be willing to accept the same for such settlement: (2) his taxes, and (3) government hospital bills of the applicants; * * * [1]

At the time the appellant applied for back pay under the provisions of Republic Act No. 897, which took effect or was approved on 20 June 1953, he had a subsisting obligation to indemnify the Government in the sum of P17,863.59 imposed upon him by final judgment rendered on 10 March 1953 by a competent court in a criminal case for malversation of public funds.

The order appealed from is affirmed, with costs against the appellant.

Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.
Paras, C.J., took no part.

[1] See also section 5, Republic Act No. 897.

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