

CHIEF SUPT. ROMEO M. ACOP AND SR. SUPT. FRANCISCO G. ZUBIA, JR., PETITIONERS-APPELLANTS, VS. HON. TEOFISTO T. GUINGONA, JR., IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF JU...

G.R. No. 134855. July 02, 2002

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court filed by Chief Supt. Romeo M. Acop and Sr. Supt. Francisco G. Zubia seeking to reverse and set aside the Decision dated July 30, 1998 of the Regional Trial Court of Quezon City (Branch 89) which dismissed this petition for injunction.

The factual antecedents leading to the present petition are as follows:

On May 18, 1995, eleven (11) suspected members of the criminal group known as the Kuratong Baleleng gang were killed along Commonwealth Avenue in Quezon City in an alleged shootout with the Anti-Bank Robbery Intelligence Task Group of the Philippine National Police (PNP).

SPO2 Eduardo delos Reyes, a member of the Criminal Investigation Command (CIC) of the PNP and who was one of the officers assigned to conduct an investigation of the May 18, 1995 incident, made a public disclosure of his findings that there was no shootout and the eleven suspected members of the Kuratong Baleleng gang were instead summarily executed. SPO2 Corazon dela Cruz, also a member of the CIC, made the same statement corroborating the claim of SPO2 delos Reyes.

The Senate conducted hearings to determine the circumstances surrounding the subject incident. SPO2 delos Reyes and SPO2 dela Cruz testified before the Senate hearings. On June 2, 1995, former Senator Raul Roco, who was then the Chairman of the Senate Committee on Justice and Human Rights, recommended that SPO2 delos Reyes and SPO2 dela Cruz be admitted to the government's Witness Protection, Security and Benefit Program. Accordingly, SPO2 delos Reyes and SPO2 dela Cruz were admitted into the said Program.

On March 12, 1996, herein petitioners, in their capacity as taxpayers, but who are among the PNP officers implicated in the alleged rubout, filed before the court a quo a petition for injunction with prayer for temporary restraining order questioning the legality of the admission of SPO2 delos Reyes and SPO2 dela Cruz into the Program. Petitioners contend that under Section 3(d) of R.A. No. 6981, law enforcement officers, like SPO2 delos Reyes and SPO2 dela Cruz, are disqualified from being admitted into the witness protection program even though they may be testifying against other law enforcement officers.

On July 30, 1998, the trial court rendered the herein assailed decision.

Hence, the petition anchored on a sole assignment of error, to wit:

"THE COURT A QUO ERRED IN RULING THAT RESPONDENTS SPO2 EDUARDO DELOS REYES AND SPO2 CORAZON DELA CRUZ ARE QUALIFIED TO BE ADMITTED INTO THE WITNESS

PROTECTION PROGRAM DESPITE THEIR CLEAR DISQUALIFICATION FROM THE PROGRAM UNDER SECTION 3(D) OF REPUBLIC ACT NO. 6981, OTHERWISE KNOWN AS THE 'WITNESS PROTECTION, SECURITY AND BENEFIT ACT'."

Petitioners pray that the decision of the RTC be reversed and set aside and instead -

"a) An Injunction be issued enjoining the Department of Justice from continuing to provide the benefits accruing under the Witness Protection Program to respondents SPO2 delos Reyes and SPO2 dela Cruz;

"b) Order the immediate discharge of respondents SPO2 delos Reyes and SPO2 dela Cruz from WPP and for the latter to be ordered to cease and desist from accepting the benefits of the WPP; and

"c) Order respondents SPO2 delos Reyes and SPO2 dela Cruz to return whatever monetary benefits they have received from the government as a consequence of their wrongful and illegal admission into the WPP." [1]

In its Comment, the Office of the Solicitor General (OSG) claims that the petition lacks merit and that the same has been rendered moot and academic because the coverage of SPO2 delos Reyes and SPO2 dela Cruz under the Program was already terminated on December 3, 1997 and August 23, 1998, respectively, as evidenced by the letter of the Director of the Program addressed to the OSG, dated February 10, 1999.[2] In their comment, private respondents SPO2 delos Reyes and SPO2 dela Cruz agree with the OSG.

Indeed, prayers a) and b) above had been rendered moot and academic by reason of the release of SPO2 delos Reyes and SPO2 dela Cruz from the coverage of the Program. However, we find it necessary to resolve the merits of the principal issue raised for a proper disposition of prayer c) and for future guidance of both bench and bar as to the application of Sections 3(d) and 4 of R.A. No. 6981. As we have ruled in *Alunan III vs. Mirasol*, [3] and *Viola vs. Alunan III*, [4] "courts will decide a question otherwise moot and academic if it is 'capable of repetition, yet evading review.'"

Petitioners' main contention is that Section 3 of R.A. No. 6981 lays down the basic qualifications a person must possess in order to be admitted into the Program and that Section 4 of the same statute is not an exception to Section 3 but, it simply adds requirements for witnesses before they may become eligible for admission into the Program in case of legislative investigations.

We do not agree.

Section 3(d) provides:

Sec. 3. Admission into the Program. - Any person who has witnessed or has knowledge or information on the commission of a crime and has testified or is testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority, may be admitted into the Program: Provided, That:

x x x

(d)

he is not a law enforcement officer, even if he would be testifying against the other law enforcement officers. In such a case, only the immediate members of his family may avail themselves of the protection provided for under this Act.

Section 4 provides:

Sec. 4. Witness in Legislative Investigations. - In case of legislative investigations in aid of legislation, a witness, with his express consent, may be admitted into the Program upon the recommendation of the legislative committee where his testimony is needed when in its judgment there is pressing necessity therefor:

Provided, That such recommendation is approved by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

A careful reading of Sections 3 and 4 readily shows that these are distinct and independent provisions. It is true that the proviso in Section 3(d) disqualifies law enforcement officers from being admitted into the Program when they "testify before any judicial or quasi-judicial body, or before any investigating authority." This is the general rule. However, Section 4 provides for a specific and separate situation where a witness testifies before a legislative investigation. An investigation by a legislative committee does not fall under the category of "any investigating authority" referred to in Section 3. Section 4 contains only a proviso that the witness' admission to the Program must be recommended by the legislative committee when in its judgment there is a pressing necessity therefor and said recommendation is approved by the President of the Senate or the Speaker of the House of Representatives, as the case may be. Section 4 does not contain any proviso similar to Sec. 3(d) as quoted above, nor does Section 4 refer to the application of the proviso under Section 3. In other words, Section 4 did not make any qualification or distinction.

It is basic under the law on statutory construction that where the law does not distinguish, courts should not distinguish.[5] The operation of a proviso is usually and properly confined to the clause or distinct portion of the enactment which immediately precedes it or to which it pertains, and does not extend to or qualify other sections or portions of the statute, unless the legislative intent that it shall so operate is clearly disclosed.[6]

In the present case, it is clear that the legislative intent that the proviso under Section 3(d) of R.A. No. 6981 does not apply to Section 4. The trial court did not err in concluding that if the framers of the law intended otherwise, they could have easily placed the same proviso of Section 3(d) or referred to it under Section 4. Hence, in the absence of a clear proviso or reference to Section 3(d), a witness in a legislative investigation whether or not he is a law enforcement officer, may be admitted into the Program subject only to the requirements provided for under Section 4. It is not disputed that the Senate Committee on Justice and Human Rights, chaired by then Senator Raul Roco, had recommended the admission of SPO2 delos Reyes and dela Cruz into the Program and was duly indorsed by then Senate President Edgardo J. Angara.

WHEREFORE, we DENY DUE COURSE to the petition and AFFIRM the assailed decision.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Kapunan, and Ynares-Santiago, JJ., concur.

[1] Rollo, p. 27.

[2] Annex "2", Public Respondents' Comment, p. 142, Rollo.

[3] 276 SCRA 501 (1997).

[4] 277 SCRA 409 (1997).

[5] Commissioner of Internal Revenue vs. Commission on Audit, 218 SCRA 203, 214.

[6] Fernandez vs. NLRC, 230 SCRA 460, 466 [citing Chinese Flour Importers Association vs. Price Stabilization Board, 89 Phil. 469; Arenas vs. City of San Carlos, 82 SCRA 318; CIR vs. Filipinas Compania de Seguros, 107 Phil. 1055]; 82 CJS, Secs. 316-317, pp. 553-554; Sec. 381, p. 887.

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