

PHILIPPINE NATIONAL BANK, ET AL., PLAINTIFFS AND APPELLANTS, VS. EMILIO A. GANCAYCO, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 18343. September 30, 1965

Ponente: REGALA, J.

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REGALA, J.:

The principal question presented in this case is whether a bank can be compelled to disclose the records of accounts of a depositor who is under investigation for unexplained wealth.

This question arose when defendants Emilio A. Gancayco and Florentino Flor, as special prosecutors of the Department of Justice, required the plaintiff Philippine National Bank to produce at a hearing to be held at 10 a.m. on February 20, 1961 the records of the bank deposits of Ernesto T. Jimenez, former administrator of the Agricultural Credit and Cooperative Administration, who was then under investigation for unexplained wealth. In declining to reveal its records, the plaintiff bank invoked Republic Act No. 1405 which provides:

SEC. 2. All deposits of whatever nature with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office, except upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation.

The plaintiff bank also called attention to the penal provision of the law which reads:

SEC. 5. Any violation of this law will subject the offender upon conviction, to an imprisonment of not more than five years or a fine of not more than twenty thousand pesos or both, in the discretion of the court.

On the other hand, the defendants cited the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019) in support of their claim of authority and demanded anew that plaintiff Eduardo Z. Romualdez, as bank president, produce the records or he would be prosecuted for contempt. The law invoked by the defendant states:

SEC. 8. Dismissal due to unexplained wealth. If in accordance with the provisions of Republic Act Numbered One thousand three hundred seventy-nine, a public official has been found to have acquired during his incumbency, whether in his name or in the name of other persons, an amount of property and/or money manifestly, out of proportion to his salary and to his other lawful income, that fact shall be a ground for dismissal or removal. Properties in the name of the spouse and unmarried children of such public official, may be taken into consideration, when their acquisition through legitimate means cannot be satisfactorily shown. Bank deposits shall be taken into consideration in the enforcement of this section, notwithstanding any provision of law to the contrary.

Because of the threat of prosecution, plaintiffs filed an action for declaratory judgment in the Manila Court of First Instance. After trial, during which Senator Arturo M. Tolentino, author of the Anti-Graft and Corrupt

Practices Act testified, the court rendered judgment sustaining the power of the defendants to compel the disclosure of bank accounts of ACCFA Administrator Jimenez. The court said that, by enacting section 8 of the Anti-Graft and Corrupt Practices Act, Congress clearly intended to provide an additional ground for the examination of bank deposits. Without such provision, the court added, prosecutors would be hampered if not altogether frustrated in the prosecution of those charged with having acquired unexplained wealth while in public office.

From that judgment, plaintiffs appealed to this Court. In brief, plaintiffs' position is that section 8 of the Anti-Graft Law "simply means that such bank deposits may be included or added to the assets of the Government official or employee for the purpose of computing his unexplained wealth if and when the same are discovered or revealed in the manner authorized by Section 2 of Republic Act 1405, which are (1) Upon written permission of the depositor; (2) in cases of impeachment; (3) Upon order of a competent court in cases of bribery or dereliction of duty of public officials; and (4) In cases where the money deposited or invested is the subject matter of the litigation."

In support of their position, plaintiffs contend, first, that the Anti-Graft Law (which took effect on August 17, 1960) is a general law which cannot be deemed to have impliedly repealed section 2 of Republic Act No. 1405 (which took effect on Sept. 9, 1955), because of the rule that repeals by implication are not favored. Second, they argue that to construe section 8 of the Anti-Graft Law; as allowing inquiry into bank deposits would be to negate the policy expressed in section 1 of Republic Act No. 1405 which is "to give encouragement to the people to deposit their money in banking institutions and to discourage private hoarding so that the same may be utilized by banks in authorized loans to assist in the economic development of the country."

Contrary to their claim that their position effects a reconciliation of the provisions of the two laws, plaintiffs are actually making the provisions of Republic Act No. 1405 prevail over those of the Anti-Graft Law, because even without the latter law the balance standing to the depositor's credit can be considered provided its disclosure is made in any of the cases provided in Republic Act No. 1405.

The truth is that these laws are so repugnant to each other that no reconciliation is possible. Thus, while Republic Act No. 1405 provides that bank deposits are "absolutely confidential x x x and [therefore] may not be examined, inquired or looked into," except in those cases enumerated therein, the Anti-Graft Law directs in mandatory terms that bank deposits shall be taken into consideration in the enforcement of this section, notwithstanding any provision of law to the contrary. The only conclusion possible is that section 8 of the Anti-Graft Law is intended to amend section 2 of Republic Act No. 1405 by providing an additional exception to the rule against the disclosure of bank deposits.

Indeed, it is said that if the new law is inconsistent with or repugnant to the old law, the presumption against the intent to repeal by implication is overthrown because the inconsistency or repugnancy reveals an intent to repeal the existing law. And whether a statute, either in its entirety or in part, has been repealed by implication is ultimately a matter of legislative intent. (Crawford, *The Construction of Statutes* pp. 309-310. Cf. *Iloilo Palay and Corn Planters Ass'n. v. Feliciano*, G.R. No. L-24022, March 3, 1965)

The recent case of *People v. De Venecia*, G. R. No. L-20808, July 31, 1965 invites comparison with this case. There it was held:

"The result is that although Sec 54 [Rev. Election Code] prohibits classified civil service employee from aiding any candidate, Sec. 29 [Civil Service Act of 1959] allows such classified employee to express his views on current political problems or issues, or to mention the name of his candidate for public office, even if such expression of views or mention of names may result in aiding one particular candidate. In other words, the last

paragraph of Sec. 29 is an exception to Sec. 54; at most, an amendment to Sec. 54."

With regard to the claim that disclosure would be contrary to the policy making bank deposits confidential, it is enough to point out that while section 2 of Republic Act No. 1405 declares bank deposits to be "absolutely confidential" it nevertheless allows such disclosure in the following instances: (1) Upon written permission of the depositor; (2) In cases of impeachment; (3) Upon order of a competent court in cases of bribery or dereliction of duty of public officials; (4) In cases where the money deposited is the subject matter of the litigation. Cases of unexplained wealth are similar to cases of bribery or dereliction of duty and no reason is seen why these, two classes of cases cannot be excepted from the rule making bank deposits confidential. The policy as to one cannot be different from the policy as to the other. This policy expresses the notion that a public office is a public trust and any person who enters upon its discharge does so with the full knowledge that his life, so far as relevant to his duty, is open to public scrutiny.

Wherefore, the decision appealed from is affirmed, without pronouncement as to costs.

Concepcion, Reyes, J. B. L., Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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