LA COMPANIA GENERAL DE TABACOS DE FILIPINAS, PLAINTIFF AND APPELLANT, VS. THE GOVERNMENT OP THE PHILIPPINE ISLANDS, DEFENDANT AND APPELLEE.

G.R. No. 21700. February 05, 1924

Ponente: JOHNS, J.

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JOHNS, J.:

At its special session of 1923, the Legislature passed a law entitled "An Act defining the conditions under which the Government of the Philippine Islands may be sued," section 1 of which provides:

"Subject to the provisions of this Act, the Government of the Philippine Islands hereby consents and submits to be sued upon any moneyed claim involving liability arising from contract, express or implied, which could serve as a basis of civil action between private parties.

"Sec. 2. A person desiring to avail himself of the privilege herein conferred must show that he has presented his claim to the Insular Auditor and that the latter did not decide the same within two months from the date of its presentation."

The complaint alleges that about February 2, 1923, it and the defendant agreed that the plaintiff's steamship Mauban should receive at Manila, Philippine Islands, and carry and deliver to the port of Currimao, Ilocos Norte, six cases of denatured alcohol and four cases of office supplies, for which the defendant agreed to pay the usual charges. That the steamer arrived at its port of destination on February 13, 1923, and duly made delivery of the merchandise; that the reasonable charges were P283.63, no part of which has been paid.

"That on the 24th day of August, 1923, and in pursuance of the provisions of Act No. 3083 of the Philippine Legislature, plaintiff presented its claim to the Insular Auditor, who, on the same date, decided the same adversely to plaintiff's contentions.

"Wherefore, plaintiff prays judgment against the defendant for the above-mentioned sum, together with the interest thereon at the legal rate and for its costs of suit." The defendant filed a general demurrer to the complaint, which was sustained. The plaintiff refused to plead further, and a corresponding judgment was entered, from which he appeals, claiming that "the lower court erred in sustaining the demurrer to the complaint."

The question involved is the legal force and effect of section 2 of Act No. 3083 above quoted. Plaintiff contends that the purpose and intent of the Act was to enable a claimant, who has a claim against the Government arising out of a contract, express or implied, to present it to the Government, and that, if the claim is denied by the Insular Auditor at any time within sixty days after presented, or that if the Auditor failed to allow or reject the claim for the period of sixty days, after it was presented, that an action can then be maintained against the Government to recover the amount of the claim. Plaintiff also claims that section 2 should be construed to read that where a person "has presented his claim to the Insular Auditor, or that the latter did riot decide the same within two months from the date of its presentation."

The rule is universal that no matter how meritorious a claim may be, in the absence of express authority, a cause of action cannot be maintained upon it against the Government.

It is admitted that, as a condition precedent, and in the ordinary course of business, the claim must first be presented to the Insular Auditor, and that in the instant case it was presented and rejected upon the day it was presented. But appellant contends that the Act should be construed to mean that when its claim was rejected, its cause of action then accrued.

We have read the Act as it was originally presented to the Legislature, and it is very apparent that the purpose and intent of the original Act was to provide that a cause of action could be maintained against the Government on a claim which has been presented to, and disallowed by, the Insular Auditor. It is also very apparent that the bill, as enacted in its amended form, was intended to prohibit anyone from suing the Government, except upon the express condition stated in section 2 of the Act Giving the language its plain, ordinary meaning, it should be construed to read that a claimant must first present his claim to the Insular Auditor, and, second, that he did not allow or reject it "within two months from the date of its presentation."

In the instant case, the claim was rejected upon the date it was presented.

Inasmuch as it is an unusual and extraordinary remedy, the right to maintain an action against the Government must be conferred by the plain, positive, express provision of a statute, the meaning of which should not be left to doubt or construction.

In the instant case, upon the facts stated, it is very apparent that the Legislature never intended that the plaintiff could maintain a cause of action against the Government.

The judgment is affirmed, with costs. So ordered.

Araullo, C. J., Johnson, Street, Malcolm, Avancena, Ostrand, and Romualdez, JJ., concur.

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