

ALFREDO A. JOSE, PETITIONER-APPELLEE, VS. HON. VICENTE G. GELLA, AS TREASURER OF THE PHILIPPINES, ET AL., RESPONDENTS, HON. VICENTE G. GELLA, AS TREASURER OF THE PHILIPPINES, RE...

G.R. No. 22463. March 31, 1967

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Direct appeal on questions of law by the Treasurer of the Philippines, from a decision of the Court of First Instance of Manila, in its Civil Case No. 52833.

As found by the trial court, the facts of this case are:

Guillermo E. Sultan, a resident of Sibonga, Cebu, was the owner of Backpay Acknowledgment Certificate No. A-73422, showing a net balance of P1,012.58. On November 12, 1958, he sold, transferred and assigned, for a consideration of P977.16, his backpay rights to one Alfredo A. Jose (Exh. A). On the same date, Sultan also executed a not-arized special power of attorney appointing the said Jose his true and lawful attorney-in-fact, to claim, demand and collect the proceeds of said backpay certificate and to take such steps as may be necessary for the collection and payment of the claim. (Exh. B).

Jose filed his claim covering Sultan's backpay with the Backpay Office, which made an inquiry from Sultan, but the latter denied having sold or assigned his backpay rights to Jose. Whereupon, the Backpay Office referred the matter to the Cebu Provincial Commander of the Philippine Constabulary who, after investigation and verification, recommend-ed that the alleged sale be nullified.

In a letter dated January 2, 1963, the National Treasurer informed Jose, through his counsel, of the existence of Treasury Warrant No. 1145640 which he withheld, and of the findings and recommendation of the Cebu (P.C.) Provincial Commander as well and further stated that "unless this (Backpay) Office received within 15 days from your receipt hereof further valid cause to the contrary, this Office shall release the aforementioned Treasury Warrant No. 1145640 to Mr. Guillermo E. Sultan by registered mail to his address of record." (Exh. D).

Upon receipt of the above-mentioned letter, Jose filed, on January 19, 1963, in the court below, a petition against the National Treasurer and Guillermo E. Sultan as parties respondents, praying that a writ of mandamus be issued, directing and ordering said Treasurer to release instead said treasury warrant in his (Jose's) favor. Plaintiff also prayed for a writ of preliminary injunction against the release of the treasury warrant to Sultan.

The trial court, after due hearing, issued the writ prayed for until further orders.

The National Treasurer answered the petition, raising technical de-fenses while Sultan moved, at first, to dismiss the same, also based on technical grounds. Sultan's motion was, however, denied by the trial court and he answered the petition, reiterating his technical defenses and aver-ring as special and affirmative defense that his signatures to the deed of absolute sale of his backpay rights and the special power of attorney were obtained through fraud and without any consideration whatsoever. He did not, however, pray for the nullification of said

contracts.

At the scheduled trial, only petitioner Jose and his counsel and the counsel for the National Treasurer appeared, while Sultan and his counsel, despite previous notice to them, did not attend. The trial court then proceeded with the hearing in which petitioner Jose testified to establish the genuineness and validity of his contracts with Sultan.

On December 14, 1963, the trial court rendered its decision, the dispositive part of which reads:

"WHEREFORE, judgment is hereby rendered declaring the transfer of rights of Backpay Acknowledgment Certificate No. A-73422 of Guillermo E. Sultan in favor of the petitioner to be valid, and the Insular Treasurer is hereby ordered to cancel the treasury warrant in favor of Guillermo E. Sultan and to issue another one for the sum of P1,012.58 in favor of the petitioner. With costs against Guillermo E. Sultan."

Unsuccessful in his efforts to have the decision reconsidered, the National Treasurer appealed directly to this Court. Sultan did not, however, appeal from the decision.

In his brief, the National Treasurer points out that backpay rights are created, established and recognized under a special law (Rep. Act No. 304, as amended), and as such, all transactions affecting rights recognized therein must be governed by its provisions and not by the Civil Code; that the right to and the mode of collecting the proceeds of back-pay claims by the holder or his assignee or transferee is prescribed by law and is subject to certain conditions and limitations, compliance with which is not a mere formality but a condition sine qua non to make any transfer or assignment of backpay rights enforceable against the government; that in case of transfer or assignment of backpay rights to a person or financial institution, the following are required: (1) that the transferee must, if a person, be a Filipino, and if a bank or financial institution, at least 60% of its capital must be owned by Filipinos; (2) that the rate at which the certificate may be discounted can not exceed 3-1/2 % per annum, and the period of redemption cannot exceed ten years; and (3) that the transfer can be made only by means of an application to be filed by the holder of a backpay acknowledgment with the Office of the Treasurer of the Philippines for the issuance of a negotiable certificate of indebtedness chargeable against his backpay account and in favor of the person or entity willing to accept the same. Since the transfer or assignment in the case at bar was made by means of "ordinary" sale, without the backpay holder having applied for the issuance of a negotiable certificate of indebtedness in favor of Jose; and the legal and administrative requirements of the Backpay Law were not, therefore, complied with, the National Treasurer contends that the said sale can not be binding and enforceable against him.

The National Treasurer also questions the propriety of an action for mandamus, pointing out that the appellee (Jose) has an available and effective remedy by an ordinary action against Sultan for specific performance to compel the latter to comply with all the requirements of the Backpay Law, i.e., to apply for the issuance of a negotiable certificate of indebtedness in his (Jose's) favor; that Jose may ask in that suit for a writ of preliminary injunction, directing the National Treasurer to withhold the release of the treasury warrant to Sultan pending the final termination of the action between the parties; and once Jose obtains a favorable judgment finally ordering Sultan to apply for the necessary negotiable certificate of indebtedness in his (Jose's) favor, only then would the National Treasurer be legally bound to recognize the transfer of rights by Sultan to him (Jose).

Without passing on the merits of the above contentions of the National Treasurer, we are constrained to hold that the appealed judgment should be affirmed. It is to be noted that the trial court ruled that the deed of transfer of backpay rights by Sultan in favor of Jose is valid, effective and binding against the former. Such ruling has become final against defendant Sultan, he not having appealed therefrom. The National Treasurer does not question the jurisdiction of the court below, nor does he dispute its ruling on the validity of the transfer of backpay rights between Sultan and Jose; and the same is binding on this Court, the National Treasurer having

taken a direct appeal to us. Under these circumstances, we believe that the petition filed in the court below, although denominated as one for mandamus and injunction, has already served the purpose of a suit for specific performance which the National Treasurer suggests as the more appropriate and effective remedy. To require another separate action would not only entail an expensive, cumbersome and dilatory proceeding, but would also involve a multiplicity of suits not sanctioned by the Rules of Court. In effect, it would be merely indulging in technicalities.

WHEREFORE, the appealed decision should be, as it is hereby, affirmed. Without pronouncement as to costs.

SO ORDERED.

Concepcion, C.J., Dizon, Regala, Zaldivar, Sanchez, and Castro, JJ., concur.

Makalintal, J., took no part.

Bengzon, J., concurs in the result.

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