

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. MODESTO R. RAMOLETE IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF CEBU AND QUIRICO DEL MAR, RESPONDENTS.*G.R. No. 24672. August 12, 1966*

Ponente: RUIZ CASTRO, J.

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Before us is a petition for certiorari and mandamus filed by the Republic of the Philippines against Modesto R. Ramolete, in his capacity as Judge of the Court of First Instance of Cebu City, Branch V, and Quirico Del Mar, "petitioner" (plaintiff) in civil case R-8465 of the same court against the Philippine Veterans Administration (hereinafter referred to as the PVA). The petitioner herein prays that the order of the respondent court of April 30, 1965, holding the PVA as not exempt from the filing of an appeal bond, and its order of May 15, 1965, declaring the judgment in civil case R-8465 final and ordering its execution, be annulled, and that the respondent judge be directed to give due course to the appeal interposed by the PVA from his decision in the said civil case and to forward the records thereof to this Court.

The present petition stemmed from a "Petition" filed by Quirico Del Mar against the PVA with the Court of First Instance of Cebu, Branch V, Cebu City, presided by the respondent Modesto R. Ramolete.[1] In that petition, Del Mar sought to compel the PVA to pay him his back pensions payment of which was discontinued when the PVA learned that he was receiving a similar pension from the United States Government. He also seeks payment of damages (moral, compensatory and exemplary) aside from costs of suit. The PVA, in its answer to the petition, averred that the petition was prematurely filed since Del Mar had not first exhausted all administrative remedies; that the discontinuance of payment of his pension was done in the proper exercise of its discretionary powers; that the action, although in the form of a "Petition", is essentially a claim for a sum of money against the Republic of the Philippines. After trial, the respondent court rendered judgment ordering the PVA to pay Del Mar his back pension. On March 9, 1965 the Solicitor General received a copy of the decision, and on March 16 he sent by registered mail addressed to the respondent court a notice, stating that the Government was appealing the decision to this Court. On April 14, 1965 Del Mar filed a motion for execution of the judgment, on the ground that the reglementary period for the perfection of an appeal had expired without the PVA having filed the necessary appeal bond. This motion was opposed by the PVA's special counsel who asked that the same be denied on the ground that since the PVA is an agency or office of the Republic of the Philippines, exercising purely governmental functions, it is exempt from filing an appeal bond. Pursuant to the respondent court's order of April 30, 1965, declaring that the PVA is not exempt from filing an appeal bond, and, "therefore, it should file the necessary appeal bond if it wants this Court to give due course to its appeal, on the condition that at this late time the said defendant's time to perfect the appeal has not been terminated yet," the PVA sent to the respondent court PNB check SN-556285, dated May 19, 1965, in the amount of P120, representing the required appeal bond. The respondent court in its order of May 15, 1965 declared that its judgment subject of the projected appeal had already become final. The same order granted the motion of Del Mar for execution of the judgment. The PVA,

represented by the Solicitor General, moved to have the last order reconsidered. Del Mar opposed the motion, to which the Solicitor General filed a reply. The motion for reconsideration was denied by the respondent court in its order of June 5, 1965; the Republic of the Philippines on June 25 filed the present petition, imputing grave abuse of discretion to the respondent judge, and alleging that the PVA has no other plain, speedy and adequate remedy in the ordinary course of law.

Pursuant to a subsequent petition for preliminary injunction filed by the herein petitioner, this Court by Resolution of March 9, 1966 issued a preliminary injunction restraining both respondents from taking further action in civil case 8465. And by Resolution of March 22, 1966 this Court denied the motion of Del Mar to quash the said injunction.

The only issue is one of law: Is the PVA exempt from the filing of an appeal bond? To resolve this issue, we must initially determine whether the PVA is an agency or instrumentality of the Republic of the Philippines, and, in the affirmative, whether it exercises governmental functions.

The Philippine Veterans Administration is a creature of law. History in perspective, the Philippine Legislature, by virtue of Concurrent Resolution 8 adopted on February 8, 1917, created a "Joint Committee" charged with the preparation of a record of invalids of the Philippine Revolution. Under Act 2756, approved on February 23, 1918, the records of the "Joint Committee" were transferred to the Department of Interior, and the Secretary of Interior was empowered to decide whether or not a person was an invalid. The Act authorized him to gather, care for and assist such invalids of past revolutions as may desire it, and for that purpose, may establish, equip, and manage at suitable places invalid homes where to gather, care for and maintain the invalids and to give them the necessary assistance and attendance; he exercised complete control over the invalid homes thus established. He received donations of all kinds to aid the invalids, and expended them for the purposes of the Act. He exercised all other powers and issued all regulations necessary to carry out the provisions of the Act. He was required to include in each year in the estimate of the Department of Interior the necessary appropriation for the relief of invalids, and report to the Legislature at the beginning of each session the receipts from donations and other sources, the expenses incurred and disbursements made, and the work performed by him as the Act required.

Act 2756 was repealed by Commonwealth Act 288, approved on June 3, 1938. This Act created a "Board of Pensions for Veterans" under the Department of Interior. The Act empowered the Board to determine the persons entitled to pension, classify them by ranks, and fix, with the approval of the Secretary of Interior, the corresponding pensions for each rank, and suspend or withdraw the pension or any part thereof of any pensioner, when in its judgment the reasons entitling him to pension have ceased to exist, subject also to the approval of the Secretary of Interior. The latter was required to include in each year in the estimate of the Department of Interior the necessary appropriation for the relief of invalids.

Commonwealth Act 288 was amended by Comm. Act 359, approved on August 22, 1938. The office of the "Board on Pensions for Veterans" was transferred to the Office of the President. The President designated, under the Act, the chairman of the Board and assigned its office in the City of Manila or in any other place which he deemed convenient. The Board was empowered (1) to make its own rules of procedure, to determine the persons entitled to pensions, classifying them by their ranks in the past revolutions and wars; (2) subject to the approval of the President of the Philippines, to fix the corresponding pension for each rank; and (3) to suspend or withdraw the pension of a pensioner when in its judgment the reason entitling him to pension has ceased to exist.

Commonwealth Acts 288 and 359 were repealed by Comm. Act 605, approved on August 22, 1940. This Act provided, among other things, for the creation of a "Board of Pensions for Veterans", composed of the Commissioner of the Budget as chairman of the Board, the Commissioner of Civil Service, and the Auditor

General, all to serve without compensation, and two veterans appointed by the President of the Philippines with the consent of the Commission on Appointments. The Act also provided for the position of a Secretary of the Board. The Board was empowered to formulate its own rules of procedure, to determine the persons entitled to pension, to classify them according to their ranks, and, subject to the approval of the President, to fix the pension assigned to each rank, and to set aside funds appropriated for the purposes of the Act.

On October 18, 1946 Republic Act 65 [2] was approved. To carry out its purposes, a "Philippine Veterans Board" was created under the Department of National Defense,[3] composed of a Chairman of the Board as its executive officer, and members to be taken from among the veterans to be appointed by the President of the Philippines with the consent of the Commission on Appointments. Subject to the approval of the Secretary of National Defense, the Board was empowered to adopt rules and regulations to carry out the provisions of the Act.

On June 17, 1950 R.A. 539 was approved. This Act amended Comm. Act 605. Section 3 thereof provided for the creation of a "Board of Pensions for Veterans", composed of five members, all former veterans of past Philippine revolutions or wars, who are not affiliated to any political group or party, to be appointed by the President of the Philippines with the consent of the Commission on Appointments. The Secretary of the Board was designated by the President upon recommendation of the Board. The Board was empowered to formulate its own rules of procedure, determine the persons entitled to pension under the Act, classify them according to their ranks in the past revolutions and wars, and fix, with the approval of the President, the pensions to be assigned to each rank. Such rules determined, among other things, the manner the pensions were to be paid, in order to protect the Government against possible falsifications, and assure that the pensions reached the hands of the pensioners. The monthly pension which could be awarded by the Board was not less than thirty pesos nor more than one hundred pesos.

By virtue of R.A. 1889, approved on June 22, 1957, the "Veterans Claims Commission" was created under the Office of the President composed of one Chairman and two members appointed by the President with the consent of the Commission on Appointments, whose duty it was to process, determine, screen and adjudicate all unsettled claims of Filipino veterans, to work and negotiate for more benefits for Filipino veterans from the Government of the United States in conjunction with other agencies of the Philippine Government working in favor of veterans. This was enacted with the end in view of securing full implementation of Executive Order 21 of President Sergio Osmeña dated October 28, 1944, subsequently embodied in Circular 100 of the USAFFE headquarters dated November 17, 1944.[4]

On June 18, 1960 R.A. 2664, otherwise known as the "Philippine Veterans Administration Act", was approved. This Act (1) created the Philippine Veterans Administration under the Office of the President, (2) consolidated the offices charged with the administration of all benefits due the veterans, their heirs or beneficiaries, (3) abolished the Board of Pensions for Veterans, the Philippine Veterans Board, the Veterans Back Pay Commission, and the Veterans Claims Commission, and (4) transferred their personnel, books, records, documents, files, supplies, equipment, furniture, appropriations and unrevolvable or unexpended balance of their prior and/or current appropriations to this new body. The Philippine Veterans Administration is composed of an Administrator and four Deputy Administrators, known as First, Second, Third and Fourth Deputy Administrators, all appointed by the President of the Philippines with the consent of the Commission on Appointments. Section 11 of the law provides that subject to existing laws, the Administration shall have the power to promulgate and issue rules and regulations as may be found necessary to govern its operations and to carry out the aims and purposes of the Act and all other laws to be administered by the Administration. Section 9 of the same law provides that the powers, duties and functions vested in or exercised and performed by the offices already named as well as those exercised and performed by the "Claims Office" of the Office of the Judge Advocate General, Armed Forces of the

Philippines under R.A. 139 (approved on June 14, 1947), are transferred to the Administration, subject to certain exceptions, and provides further that the duties and functions of the National Treasurer shall be limited only to the issuance of acknowledgment certificates and certificates of indebtedness or treasury warrants in liquidation of the same upon recommendation of the body so created.

The foregoing disquisition on the history, development and organization of the body now known as the Philippine Veterans Administration, conclusively demonstrates that all the governmental agencies or entities charged with duties and functions relating to claims of veterans of revolutions or wars, have always been and still are part of the Executive Department of the Government: of the Department of Interior from 1918 to 1938, of the Office of the President until 1946, of the Department of National Defense until 1957, and again of the Office of the President up to the present. The PVA is therefore an entity or agency of the Republic of the Philippines,[5] and is embraced within the term "Government of the Philippines.[6] The powers conferred upon it by law, as well as its duties, namely, formulate its own rules of procedure, determine the persons entitled to pension, classify them according to their ranks in the past revolutions or wars, and fix, subject to the approval of the President of the Philippines, the pensions to be assigned to each rank and the manner such pensions are to be paid to assure that the pensions reach the hands of the pensioners, are undoubtedly governmental functions.

The "Petition" in civil case 8465 of the court a quo, though styled as a "mandamus" case, is but a claim for a sum of money against the Government, which claim, if adjudged finally to be meritorious, would render the Republic of the Philippines liable therefor, since the funds against which the claim is to be charged are funds appropriated by Congress for the PVA (Sec. 8, R.A. 2664; see also Sec. 7, Act 2756; Sec. 4, Comm. Act 288; Sec. 4, Comm. Act 359; Sec. 19, Comm. Act 605, as amended by Sec. 1, R.A. 539; Secs. 17, 18, R.A. 65).

As uniformly held by this Court, a charge against the Government when the money involved is part of the public funds, is a suit against the Government, and the happenstance that the action is directed against the PVA as an entity and not against the Republic of the Philippines is of no moment. Perforce, the Republic of the Philippines, on matters of administration of all benefits due to the veterans of revolutions and wars, and to their heirs and beneficiaries, acts and has to act through its agency and instrumentality, the PVA. The suit should therefore be regarded as one against the Republic of the Philippines ;[7] the PVA is therefore exempt from the filing of an appeal bond.[8]

The respondent court did therefore err when it held that the PVA is not so exempt. Its declaration that the judgment in civil case R-8465 had already become final, and its order granting the motion of the respondent Del Mar for execution, must therefore be voided since the notice of appeal filed by the Solicitor General was made, and the PVA's appeal was duly perfected, within the 15-day reglementary period, pursuant to section 17, Rule 41 of the Rules of Court.

ACCORDINGLY, the present petition is granted; the orders complained of (orders of April 30 and May 15, 1965) are set aside; and the respondent court is ordered to certify on appeal the records of civil case 8465 to the proper appellate court. No pronouncement as to costs.

Concepcion, C.J., Reyes, Barrera, Dizon, Makalintal, Bengzon, and Sanchez, JJ., concur.
Regala, and Zaldivar, JJ., no part.

[1] Judge Modesto R. Ramolete retired on June 30, 1965. Judge Jose A. Alegaen of the CFI of Toledo, Cebu is temporarily assigned to Branch V, CFI, Cebu City .

[2] R.A. No. 65 was amended by Sec. 1, R.A. No. 307.

[3] "SEC. 38. The Board of Pensions for Veterans is hereby abolished and its powers, duties, functions, properties, equipment and personnel, except the Chairman and the Members, are hereby transferred to the Philippine Veterans Board created under Republic Act Numbered sixty-five, as amended, under the executive supervision of the Dept. of National Defense.

"The Philippine Veterans Board shall be composed of a Chairman and six members, two of whom shall be veterans of past Philippine revolutions or wars." (Ex. Order No. 392, Dec. 31, 1950; 46 O. G. No. 12, pp. 5913, 5921-22.)

[4] R.A. No. 1889, 53 O. G., No. 18, 6066.

[5] Secs. 2, 74 in relation to 75, Rev. Adm. Code.

[6] Palafox v. Ilocos Norte, G.R. No. L-10659, Jan. 31, 1958; see also Garcia v. The Chief of Staff, et al., G.R. No. L-20213, Jan. 31, 1966.

[7] Syquia v. Almeda Lopez, 84 Phil., 312, 319; Republic v. Hernando, et al., 99 Phil. 687, 691.

[8] Sec. 16, Rule 141, Rev. Rules of Court, formerly Sec. 16, Rule 130; The Gov't. of the P.I. v. Judge of 1st Instance of Iloilo, 34 Phil., 157, 158; Marine Trading Co. v. Gov't. of the Phil., 39 Phil., 29, 30, 32-33; Hongkong & Shanghai Banking Corporation v. Rafferty, 39 Phil. 145; Gutierrez, et al. v. Camus, et al., 96 Phil., 144, 148.

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