

WALTER BULL, PLAINTIFF AND APPELLANT, VS. ALFREDO L. YATCO, COLLECTOR OF INTERNAL REVENUE, DEFENDANT AND APPELLEE.

G.R. No. 45322. May 04, 1939

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

On February 14, 1936 Walter Bull filed with the Court of First Instance of Manila a complaint against Alfredo L. Yatco, in his capacity as Collector of Internal Revenue, in which on the facts therein alleged he prayed that said defendant be required to submit to the court the names of all merchants and purchasing firms mentioned in the complaint which the Bureau of Internal Revenue had found to have made sales under false invoices to the Simplex Trading Co., Inc., and which did not declare said sales for purposes of taxation, as well as the respective amounts of surcharge and compromise which each of them had respectively paid to the Bureau of Internal Revenue in an extrajudicial compromise of each of their respective cases, and a detailed statement of the rewards to which the said plaintiff is entitled under the law and the rules governing all questions concerning rewards; that plaintiff be declared to be entitled to the reward sought to be recovered; and that the Collector of Internal Revenue be ordered to pay to the said plaintiff the corresponding rewards, plus the costs of the suit.

To the aforementioned complaint, defendant through the Solicitor-General, interposed a demurrer based on the ground that the Court of First Instance of Manila had no jurisdiction over the person of the defendant, for the reason that he is an agent of the government who acts in his official capacity and that this being an action for the recovery of a sum of money, the same becomes an action against the Commonwealth of the Philippines, and prayed for the dismissal of the case.

Trial on the demurrer having been held and the parties heard, the Court of First Instance of Manila sustained the same on the ground that the Commonwealth of the Philippines has not given its consent to the bringing of the present action against it.

From the foregoing order plaintiff has taken the instant appeal, assigning as the sole alleged error committed by the court a quo the fact that it sustained the demurrer.

Section 2735 of the Revised Administrative Code, as amended by Act No. 3734, provides:

"SEC. 2735. Payment of informers.- Any person, except an internal-revenue agent or officer or other public official, who voluntarily gives definite information leading to the arrest and conviction of any one violating any of the penal provisions of the internal-revenue laws, shall be rewarded in a sum equivalent to fifty per centum of the fine imposed by the court and collected from the violator: Provided, however, That in cases in which the violator has offered to compromise the violation of law committed by him and his offer has been accepted by the Collector of Internal Revenue, the reward to be paid to the informer shall be fifty per centum of the amount compromised and collected from the violator, exclusive of taxes: Provided, further, That if the information furnished has led to the discovery of any delinquency or fraud in the payment of any

internal-revenue tax for which the law provides penalties, the informer shall also a reward equivalent to fifty per centum of the penalties established by law and actually collected from the delinquent or offending taxpayer: And provided, further, That if the money paid by the delinquent taxpayer or collected by the Government by legal action or execution, is not sufficient to cover all taxes and penalties established by law and owing by the taxpayer, the informer shall receive fifty per centum of the sum so paid or collected, but he shall in no case receive more than the amount of the reward to which he is entitled under the provisions of this section: And provided, finally, That the reward provided for in this section shall be paid under regulations issued by the Collector of Internal Revenue, with the approval of the Department Head.

"The reward herein authorized shall be paid out of the fines, compromises, and penalties established by law, collected as result of the information furnished by the informers."

In accordance with the legal provisions above quoted, the Secretary of Finance, who is the head of the Department of Finance, under whose administrative jurisdiction the Bureau of Internal Revenue is placed, promulgated the following regulation on May 12, 1931:

"DEPARTMENT OF FINANCE

"REGULATIONS NO. 68

"REGULATIONS GOVERNING THE PAYMENT OF REWARD TO INFORMERS

"MANILA, MAY 12, 1931

* * * * *

"After the final settlement of the case, the Collector of Internal Revenue will determine whether or not informer is entitled to any reward, and, in the affirmative case, will order the corresponding warrant to be made in his favor. It is to be understood that in cases where the taxpayer effects payment of the taxes and surcharges or any other statutory penalties imposed by the internal revenue laws under protest, no reward shall be given the informer until after the protest shall have been withdrawn, the right to recover barred by statute, or the legality of assessment or collection sustained by the courts.

"MIGUEL UNISON

"Secretary of Finance"

It is alleged in the complaint that plaintiff and appellant, Walter Bull, asked defendant Collector of Internal Revenue in the month of July, 1934 and thereafter to pay him the reward corresponding to him in connection with the sums collected by the Bureau of Internal Revenue from the merchants and importing houses; but said defendant refused and still refuses to pay the aforesaid reward. It does not appear that he has taken other and further steps, though administrative methods, towards the payment of his claim.

There is no doubt that the Collector of Internal Revenue is an agent of the Government for whose authorized acts the Government responds. Consequently, any moneyed claim which may be filed against said collector, either through administrative or judicial proceedings by reason of acts performed by him, affects the Government; and the Philippine Legislature and the Constitution of the Philippines have regulated the procedure which must be followed in such cases before said Government may be sued.

Act No. 3083 provides as follows:

"SECTION 1. 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."

And section 3, Article X, of the Constitution, says:

"SEC. 3. The decisions of the Auditor General shall be rendered within the time fixed by law, and the same may be appealed to the President whose action shall be final. When the aggrieved party is a private person or entity, an appeal from the decision of the Auditor General may be taken directly to a court of record in the manner provided by law."

It will be seen that before a private individual may sue the Government in a court of record on any moneyed claim involving liability arising from contract, express or implied, it is essential that it be shown; First, that the claim has been presented to the Auditor General; and second, that this official has decided the same adversely.

It does not appear that plaintiff has appealed to the Auditor General from the denial by the Collector of Internal Revenue of his claim or reward as an informer, not that the former has decided it against him.

In view of the foregoing considerations, we are of the opinion and so hold that the denial by the Collector of Internal Revenue of the claim of an informer of violations of internal-revenue laws for a reward owing to him by reason of complaints against such violators should be appealed to the Auditor General; and only when the claim is denied by said official may the informer-claimant apply to the ordinary courts of record, which shall then acquire jurisdiction to take cognizance of the moneyed claim against the Commonwealth of the Philippines.

Wherefore, the order appealed from is affirmed, with costs against the appellant. So ordered.

Avanceña, C.J., Imperial, Diaz, and Concepcion, JJ., concur.

Laurel, J., concurs in the result, see concurring opinion

Moran, J., agree with the concurring opinion of Justice Laurel.

CONCURRING OPINION

LAUREL, J.:

I concur in the result not on the theory of the by-gone doctrine of the immunity of the Government from suit, much less on the proposition that the Collector of Internal Revenue could not be sued because he acted as an agent of the Government in this case, but because under the law payment of reward under section 2735, as amended, of the Revised Administrative Code, is determined in accordance with the rules promulgated by the Collector of Internal Revenue with the approval of the Secretary of Finance. Unless the complainant shows compliance with these rules, he has no cause of action. In cases of this nature, the method contemplated is primarily of an administrative character. And assuming that this is a proper claim against the Government already acted upon by the proper authorities having jurisdiction to pass upon the same, section 3 of Article X of the Constitution outlines the procedure by which the aggrieved private person or entity may ventilate the case before the courts. No mention is here made of Commonwealth Act No. 327 because this Act should not be given any retroactive effect in the present case.

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