

**PHILIPPINE VETERANS INVESTMENT DEVELOPMENT CORP.
(PHIVIDEC) & PHIVIDEC INDUS-TRIAL AUTHORITY,
PETITIONERS, VS. HON. ALEJANDRO M. VELEZ, AS JUDGE, RTC OF
CAGAYAN DE ORO CITY, BRA...**

G.R. No. 84295. July 18, 1991

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

The only issue in this petition for certiorari and prohibition with preliminary injunction involving government-owned or controlled corporations, is whether or not Presidential Decree No. 242 is unconstitutional.

On September 8, 1987, the respondent, Philippine Veterans Assistance Commission (PVAC), filed in the Regional Trial Court a complaint for foreclosure of mortgage against the petitioners - the Philippine Veterans Investment Development Corporation (PHIVIDEC) and PHIVIDEC Industrial Authority (PIA). The complaint was docketed as Civil Case No. 11157 and raffled to Branch XX, presided over by respondent Judge Alejandro M. Velez.

On November 20, 1987, PHIVIDEC and PIA filed an answer with counterclaim. They alleged lack of jurisdiction by the trial court over the case for it is allegedly covered by the arbitration powers of the Government Corporate Counsel under Presidential Decree No. 242 of July 9, 1973, Sections 3-b and 6 of which prescribe the procedure for the administrative settlement and adjudication of disputes, claims, and controversies between or among government offices, agencies and instrumentalities, including government-owned or controlled corporations. Sections 1, 3-b and 6 of P.D. 242 provide:

"SEC. 1. Provisions of law to the contrary notwithstanding, all disputes, claims and controversies solely between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including government-owned or controlled corporations but excluding constitutional offices or agencies, arising from the interpretation and application of statutes, contracts or agreements, shall henceforth be administratively settled or adjudicated as provided hereinafter: Provided, That this shall not apply to cases already pending in court at the time of the effectivity of this decree."

"SEC. 3. x x x.

"(b) The Government Corporate Counsel, with respect to disputes or claims or controversies between or among the government-owned or controlled corporations or entities being served by the Office of the Government Corporate Counsel;"

"SEC. 6. The final decisions rendered in the settlement or adjudication of all such disputes, claims or controversies shall have the same force and effect as final decisions of the court of justice." (RolIo, pp. 29-30.)

In an order dated March 15, 1988, Judge Velez denied the motion to dismiss on the ground that P.D. No. 242 is "unconstitutional for being an act that amounts to an emasculation and impairment of the judicial power of review

of this court and of the Supreme Court under the 1987 Constitution" (p. 36, Rollo).

Petitioners filed a motion for reconsideration of that order which PVAC opposed. In an order dated June 13, 1988, respondent Judge denied the motion for reconsideration.

On August 5, 1988, petitioners filed in this Court a petition for certiorari and prohibition with a prayer for preliminary injunction.

On October 5, 1988, we referred the case to the Court of Appeals which has concurrent jurisdiction with the Supreme Court over special civil actions of certiorari against regional trial courts.

On October 26, 1988, the petitioners filed a motion for reconsideration of our resolution. The Court of Appeals eventually returned the case to this Court for us to resolve the motion for reconsideration.

On May 15, 1989, the First Division issued a resolution ordering the petitioners, PHIVIDEC and PIA, as well as respondent PVAC, to inform this court, within five (5) days from notice, whether or not they are Government agencies or Government-owned or controlled corporations.

In a "Compliance" dated May 31, 1989, PHIVIDEC and PIA manifested that they are government-owned and controlled corporations created under P.D. No. 243 and P.D. No. 538, respectively.

Respondent PVAC similarly filed a manifestation on June 7, 1989, stating that pursuant to Section 1, paragraph (a) of P.D. No. 244, it is a body corporate and politic composed of the Secretary of National Defense, the Chief of Staff of the Armed Forces of the Philippines, the Administrator of the Philippine Veterans Affairs Office, the President of the Philippine Veterans Bank and three (3) appointive members representing the veterans group and appointed by the President of the Philippines. It is obviously a government office or agency.

Since the foreclosure proceeding filed by PVAC against PHIVIDEC and PIA arose from the interpretation and application of the mortgage contract between them, P.D. No 242 applies to the case.

Contrary to the opinion of the lower court, P.D. No. 242 is not unconstitutional. It does not diminish the jurisdiction of courts but only prescribes an administrative procedure for the settlement of certain types of disputes between or among departments, bureaus, offices, agencies, and instrumentalities of the National Government, including government-owned or controlled corporations, so that they need not always repair to the courts for the settlement of controversies arising from the interpretation and application of statutes, contracts or agreements. The procedure is not much different, and no less desirable, than the arbitration procedures provided in Republic Act No. 876 (Arbitration Law) and in Section 26, R.A. 6715 (The Labor Code). It is an alternative to, or a substitute for, traditional litigation in court with the added advantage of avoiding the delays, vexations and expense of court proceedings. Or, as P.D. No. 242 itself explains, its purpose is "the elimination of needless clogging of court dockets to prevent the waste of time and energies not only of the government lawyers but also of the courts, and eliminates expenses incurred in the filing and prosecution of judicial actions." (p. 21, Rollo.)

The notion that an administrative procedure such as is provided in P.D. No. 242, for the settlement of quarrels between two administrative offices, departments, agencies, or government corporations, would "emasculate" the jurisdiction of courts, is erroneous. In fact, Section 1, subpar, (a), Rule 20 of the Rules of Court makes a pre-trial mandatory so that the parties to a suit may meet in conference to consider, among other matters, "the possibility of x x x a submission to arbitration."

P.D. No. 242 is a valid law prescribing an administrative arbitration procedure for certain disputes among offices, agencies and instrumentalities under the executive control and supervision of the President of the Philippines. Since PVAC filed Civil Case No. 11157 against PHIVIDEC and PIA without first passing through the

administrative channel, the judicial action was premature for non-exhaustion of administrative remedies, hence, dismissible on that account (*Chia vs. Acting Collector of Customs*, 177 SCRA 755).

Respondent Judge gravely abused his discretion in denying the petitioners' motion to dismiss Civil Case No. 11157.

WHEREFORE, the petition for certiorari and prohibition is granted. The order dated March 15, 1988 of respondent Judge Alejandro M. Velez is hereby annulled and set aside and he is enjoined from further proceeding in Civil Case No. 11157 which is hereby dismissed. No pronouncement as to costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, and Medialdea, JJ., concur.

Gancayco, J., on official leave.

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