

SECOND DIVISION

[G.R. No. 181973, April 17, 2013]

**AMELIA AQUINO, RODOLFO TAGGUEG, JR., * ADELAIDA
HERNANDEZ AND LEOPOLDO BISCOCHO, JR., PETITIONERS, VS.
PHILIPPINE PORTS AUTHORITY, RESPONDENT.**

DECISION

PEREZ, J.:

Before this Court is a Petition for Review on Certiorari^[1] under Rule 45 of the Rules of Court praying that the Decision^[2] dated 29 August 2007 of the Court of Appeals (CA) in CA-G.R. SP No. 91743 be set aside. In the assailed decision, the CA reversed the 10 August 2005 Decision^[3] and 15 September 2005 Order^[4] of the Regional Trial Court (RTC), Branch 55, Manila.

Background of the case

The Congress of the Philippines passed on 21 August 1989^[5] Republic Act (R.A.) No. 6758 entitled "*An Act Prescribing a Revised Compensation and Position Classification in the Government and for Other Purposes*" otherwise known as *The Salary Standardization Law*.

Before the law, or on 31 August 1979, then President Ferdinand E. Marcos issued Letter of Implementation No. 97 (LOI No. 97), authorizing the implementation of standard compensation position classification plans for the infrastructure/utilities group of government-owned or controlled corporations. On the basis thereof, the Philippine Ports Authority (PPA) issued Memorandum Circular No. 57-87 dated 1 October 1987 which granted to its officials holding managerial and supervisory positions representation and transportation allowance (RATA) in an amount equivalent to 40% of their basic salary.^[6]

Thereafter, on 23 October 1989, PPA issued Memorandum Circular No. 36-89, which extended the RATA entitlement to its Section Chiefs or heads of equivalent units, Terminal Supervisors and senior personnel at the rate of 20% of their basic pay.^[7] And, on 14 November 1990, PPA issued Memorandum Circular No. 46-90, which adjusted effective 1 January 1990, the RATA authorized under Memorandum Circular No. 36-89, from 20% to 40% based on the standardized salary rate.^[8]

The continued validity of the RATA grant to the maximum ceiling of 40% of basic pay finds support from the Opinions^[9] rendered by the Office of the Government Corporate Counsel (OGCC), Department of Justice.

Finding justification in the increase in salary due these officials brought about by the

standardization mandated by R.A. No. 6758, PPA paid RATA differentials to its officials.

The Commission on Audit (COA) Corporate Auditor, however, in a letter dated 14 November 1990, addressed to PPA, disallowed in post-audit the payment of the RATA differentials. It likewise disallowed in audit the grant of RATA to PPA Section Chiefs or heads of equivalent units, Terminal Supervisors and senior personnel occupying positions with salary grades of 17 and above who were appointed after the effectivity of R.A. No. 6758.

The COA called PPA's attention to Memorandum No. 90-679 dated 30 October 1990 which provides that "LOImp No. 97 series of 1979 implementing Compensation and Position Classification for Infrastructure/Utilities for GOCC is replaced by Section 16 of R.A. No. 6758."^[10]

In view of the disallowances, the affected PPA officials, represented by the OGCC, filed a petition before the Supreme Court claiming their entitlement to the RATA provided for under LOI No. 97. The case was docketed as G.R. No. 100773 entitled "*Philippine Ports Authority v. Commission on Audit, et al.*"^[11]

In a decision dated 16 October 1992, the Supreme Court ruled in favor of the COA and declared that an official to be entitled to the continued RATA benefit under LOI No. 97 must be an incumbent as of 1 July 1989 and more importantly, was receiving the RATA provided by LOI No. 97 as of 1 July 1989.

As a result of the aforesaid ruling, there are at present two categories of managers and supervisors at the PPA. The first category is composed of PPA officials who were occupying their positions and actually receiving the 40% RATA under LOI No. 97 as of 1 July 1989 and who continue to receive such benefit. The second category consists of officials who were not incumbents as of 1 July 1989 or were appointed or promoted to their positions only after 1 July 1989. The second category officials therefore receive a lesser RATA under the General Appropriations Act although they hold the same rank, title and may have the same responsibilities as their counterparts in the first category.

The Case

On 26 July 2000, petitioners, who are second category PPA officials filed a Petition for Mandamus and Prohibition before the RTC of Manila, raffled to Branch 55. They claim anew that they are entitled to RATA in the amount not exceeding 40% of their respective basic salaries. They anchor their petition on recent developments allegedly brought about by the decision of the Supreme Court in the case of *De Jesus v. Commission on Audit, et al.*^[12] which was decided almost six (6) years after the Court's decision in *PPA v. COA, et al.*^[13] They further claim that certain issuances were released by the COA and the Department of Budget and Management (DBM), which in effect, extended the cut-off date in the grant of the 40% RATA, thus entitling them to these benefits.

PPA filed a motion to dismiss on the ground of *res judicata* under paragraph (f), Rule 16 of the Rules of Court. It argued that a case involving the same parties, subject matter and cause of action had already been resolved by this Court in *PPA v.*

COA, et al.^[14]

Finding merit in PPA's motion, the RTC ordered the dismissal of the petition in an Order dated 8 November 2000. The dispositive portion of the Order reads:

WHEREFORE, premises considered, the Motion to Dismiss is hereby GRANTED, and the Petition in this case is hereby DISMISSED on the ground that it is already barred by the principle of *res judicata*.^[15]

Petitioners elevated the case before the Supreme Court by way of appeal under Rule 45 of the Rules of Court. The Supreme Court, however, in a Resolution^[16] dated 28 March 2001 referred the case to the CA for appropriate action. The case was docketed as CA G.R. SP No. 64702.

On 31 July 2002, a decision was rendered by the CA on the referred case. It declared that the principle of *res judicata* is not applicable to the case. The appellate court explained that the existence of DBM and COA issuances which entitle herein petitioners to the grant of RATA is the pertinent fact and condition which is material to the instant case taking it away from the domain of the principle of *res judicata*.

^[17] When new facts or conditions intervene before the second suit, furnishing a new basis for the claims and defenses of the party, the issues are no longer the same; hence, the former judgment cannot be pleaded as a bar to the subsequent action.^[18] At the time judgment was rendered in the previous case, the fact and condition now in existence, which consist of the DBM and COA issuances, has not yet come about. In view of the issuances, petitioners are faced with an entirely separate facts and conditions, which make the principle of *res judicata* inapplicable.

^[19] The decision ordered the remand of the case to the court of origin for continuation of proceedings.

After due proceedings in the trial court, a decision in favor of petitioners was rendered on 10 August 2005. The dispositive portion of the decision commanded respondent PPA to pay the claim for RATA equivalent to 40% of petitioners' standardized basic salaries authorized under LOI No. 97, commencing from their respective dates of appointments or on 23 October 2001 when the case of *Irene V. Cruz, et al. v. COA*^[20] was promulgated by the Supreme Court, whichever is later.

The trial court ratiocinated that "when the Supreme Court En Banc ruled on 23 October 2001 in the *IRENE CRUZ* case that 'The date of hiring of an employee cannot be considered as a substantial distinction,' the so-called first (sic) category managers and supervisors whose appointments thereto were made after 01 July 1989 and who were effectively deprived of the 40% RATA on account of the Supreme Court's ruling in the *PPA v. COA, et al.* case have established a clear legal right to claim the 40% RATA under LOI No. 97 commencing on 23 October 2001, and the correlative legal duty of respondent PPA to pay the same; thus, entitling petitioners who are qualified to avail of the extraordinary remedy of mandamus."^[21]

PPA raised the matter before the CA which docketed the case as CA G.R. SP No. 91743. In a decision dated 29 August 2007, the appellate court reversed the

decision of the trial court and held:

WHEREFORE, premises considered, the August 10, 2005 Decision and the September 15, 2005 Order of the Regional Trial Court, Branch 55, National Capital Judicial Region, Manila, are hereby REVERSED. Accordingly, the Amended Petition in Civil Case No. 00-98161 is hereby DISMISSED. No costs.^[22]

Petitioners filed a motion for reconsideration but this was denied by the appellate court in a resolution dated 29 February 2008.

Hence, this petition assailing the 29 August 2007 decision of the CA and its 29 February 2008 resolution.

Issues

Petitioners raise the following issues for resolution:

I. WHETHER OR NOT THE PRINCIPLE OF RES JUDICATA IS APPLICABLE IN THE INSTANT CASE TAKING INTO CONSIDERATION THE FINAL DECISION OF THE COURT OF APPEALS IN CA. G.R. SP NO. 64702.

II. WHETHER OR NOT PPA IN DENYING THE CLAIM OF PETITIONERS FOR 40% RATA HAS COMMITTED A VIOLATION OF THEIR CONSTITUTIONAL RIGHT TO EQUAL PROTECTION; AND

III. WHETHER OR NOT PETITIONERS ARE ENTITLED TO 40% RATA AND SHOULD NOT BE MADE TO REFUND THE RATA THEY HAD ALREADY RECEIVED.

Petitioners' Argument

Petitioners submit that the decision of the CA in CA G.R. SP No. 64702 adequately cited jurisprudence and authorities on the matter involving the issue of *res judicata*. Such decision of the appellate court was not appealed by the PPA and as such, has attained finality. In view thereof, petitioners allege that the case of *PPA v. COA, et al.*^[23] can no longer serve as a ground for the dismissal of the instant case since such would result in "the sacrifice of justice to technicality."^[24]

Petitioners further submit that the CA in its decision in CA G.R. SP No. 91743 may have overlooked the significance of the Supreme Court's ruling in the case of *De Jesus v. Commission on Audit, et al.*^[25] which extended the prescribed date of effectivity of R.A. No. 6758 from 1 July 1989 to 31 October 1989, viz:

In the present case under scrutiny, it is decisively clear that DBM-CCC No. 10, which completely disallows payment of allowances and other additional compensation to government officials and employees starting

November 1, 1989 is not a mere interpretative or internal regulation. It is something more than that. And why not, when it tends to deprive government workers of their allowances and additional compensation sorely needed to keep body and soul together. x x x

Petitioners claim that the DBM, which is the agency tasked to implement R.A. No. 6758, amplified this extension in its 4 May 1992 letter to the Administrator of the National Electrification Administration (NEA). The pertinent portion of the letter reads:

DBM has authorized certain GOCCs/GFIs to grant also to officials and employees hired between the period of July 1, 1989 and October 31, 1989 the allowances and fringe benefit enumerated in said Item 5.5 of CCC No. 10.

At this juncture it is pertinent to point out that although the effectivity date prescribed in R.A. No. 6758 is July 1, 1989, said Act and its implementing circulars were formally promulgated only in the later part of October 1989. The preparation of all required documents, more particularly the Index of Occupational Services (IOS) and the Position Allocation List (PAL) for the GOCCs/GFIs was completed at much later date. Thus, within the period of transition from July 1, 1989 up to the date of completion of all the required documents for the actual implementation by each GOCC/GFI of said salary standardization, flexibility in the interpretation of rules and regulations prescribed under R.A. 6758 was necessary. DBM felt it illogical to assume that during the period R.A. 6758 was not yet issued all GOCCs/GFIs were already aware of what implementing guidelines it (DBM) will prescribe and have their personnel actions accordingly adjusted to said guidelines. Likewise, it is counter-productive if at that time, we advised all GOCCs/GFIs to suspend their personnel actions as same could be disruptive to their operations and delay the completion of important projects.

Premised on the above considerations, we maintain the position that our action allowing officials and employees hired between the period of July 1, 1989 and October 31, 1989 to be paid allowances under Item No. 5.5 of CCC No. 10 is logically tenable and reasonable since same was made during the "transitory period" from the old system to the new system.^[26]

They further claim that even the COA took cognizance of this extension in the memorandum^[27] issued by the officer-in-charge of the COA Audit Office, to wit:

Moreover, this office gives much weight to the position of the Secretary, DBM in his letter to the Administrator, NEA, dated October 30, 1993 that the cut-off date of July 1, 1989 prescribed in R.A. 6758/CCC #10 was extended to October 31, 1989 primarily on consideration that said R.A. 6758/CCC #10 were formally issued/promulgated only in the later part of October 1989. x x x