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FIRST DIVISION

[G.R. No. 158071, April 02, 2009]

JOSE SANTOS, PETITIONER, VS. COMMITTEE ON CLAIMS SETTLEMENT, AND GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before us is a petition for review on *certiorari* assailing the Decision[1] dated January 6, 2003, and Resolution[2] dated April 22, 2003 of the Court of Appeals (CA) in CA-G.R. SP No. 65163, entitled "*Jose Santos v. Committee on Claims Settlement and Government Service Insurance System (GSIS).*"

The facts are as follows:

On August 16, 1986, petitioner Jose S. Santos retired from the Department of Agrarian Reform (DAR) pursuant to Republic Act (R.A.) 1616[3] after rendering almost 21 years of service.

On January 2, 1989, petitioner was re-employed in the Office of the Deputy Ombudsman for Luzon.

In 1997, petitioner initiated moves to avail of early retirement under R.A. 660.[4] He requested and received from the Government Service Insurance System (GSIS) Operating Unit a tentative computation of retirement benefits under R.A. 660 amounting to P667,937.40. Petitioner formally applied for retirement under R.A. 660 in January 1998.

However, in a Letter[5] dated May 4, 1998, the GSIS Operating Unit informed petitioner that he could no longer retire under R.A. 660 but he could do so under R.A. 8291,[6] under which petitioner is entitled to a reduced benefit of P81,557.20. This computation did not consider petitioner's 20.91553 years of service with the DAR prior to his previous retirement.

Petitioner appealed to respondent GSIS Committee on Claims. Unfortunately, respondent affirmed the GSIS Operating Unit's computation under R.A. 8291.

On August 25, 1999, petitioner filed with the GSIS Board of Trustees a complaint against respondent docketed as GSIS Case No. 002-99.

On February 15, 2000, the GSIS Board of Trustees rendered a decision[7] denying petitioner's complaint, thus:

> WHEREFORE, judgment is hereby rendered denying Petitioner Jose S. Santos' Petition to be allowed to retire under the pension plan under RA 660, and modifying the Resolution of the Government Service Insurance System's Committee on Claims Settlement adopted in its Committee Meeting No. 158 held on September 23, 1996, insofar as it limits Petitioner's mode of retirement to that provided in RA 8291. The Operating Unit concerned is ordered to process Petitioner's retirement effective March 21, 2000 under the gratuity retirement of RA 1616 or the pension retirement under RA 8291 after he formally indicates which mode he would like to avail of.
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> SO ORDERED.

In the meantime, on March 20, 2000, petitioner was compulsorily retired for reaching the age of sixty-five.

Petitioner filed a motion for reconsideration of the February 15, 2000 decision of the Board of Trustees. He attached documentary evidence to his motion which showed several retirees who were later on reemployed after their first retirement and were allowed to choose the law under which they can again retire. Thus, like them, he should also be allowed to retire under the law of his choice. The GSIS Board of Trustees denied his motion for reconsideration on March 27, 2001.

Aggrieved, petitioner filed with the CA a petition for review under Rule 43 of the 1997 Rules of Civil Procedure.

On January 6, 2003, the CA rendered the herein challenged decision dismissing the petition for lack of jurisdiction. It ruled as follows:[8]

> This Court is of the belief, however, that the focal issue raised herein, i.e., **whether or not the petitioner can choose to retire under either Republic Act 8291 or Republic Act 660, is a pure question of law**. As such, this Court is not vested with jurisdiction to take cognizance of this case since there is no dispute with respect to the fact that when an appeal raised only pure question of law, **it is only the Supreme Court which has jurisdiction to entertain the same** (Article VIII, Section 5 (2) (e), 1987 Constitution; Rule 45, Rules of Court; see also Santos, Jr. vs. Court of Appeals, 152 SCRA [1987]).
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> **As can be seen from both parties[']** arguments, **the instant case calls for the determination of what the law is on the particular situation of herein petitioner, i.e., whether RA 660 is applicable in his case or only that of RA 8291, or both**. Such question does not call for an examination of the probative value of the evidence presented by the parties because there is no dispute as to the truth or falsity of the facts obtaining in the case.
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> **Hence, the procedure adopted by the petitioner in this case is improper**. **The proper procedure that should have been followed was to file a petition for review on certiorari under Rule 45 of the**

Rules of Court within 15 days from notice of judgment pointing out errors of law that will warrant a reversal or modification of the decision or judgment sought to be reviewed.

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WHEREFORE, the instant petition is hereby DISMISSED for lack of jurisdiction. (emphasis ours)

Petitioner filed a motion for reconsideration but the CA denied the same in its Resolution dated April 22, 2003.

Hence, this petition for review on *certiorari* with the following assignment of errors:

1. The Honorable Court of Appeals committed an error of law in holding that CA-G.R. SP No. 65163 entitled Jose S. Santos vs. Committee on Claims Settlement, GSIS raises only questions of law, hence the proper remedy for petitioner is a petition for review on certiorari under Rule 45;

2. The Honorable Court of Appeals committed an error in not giving due course to the petition as it raises questions of law only; a reading thereof shows that factual issues are raised therein. The said dismissal left unresolved the questions of law and facts raised in CA-G.R. SP No. 65163;

3. The Honorable Court of Appeals erred in not reversing the decision of the GSIS of February 15, 2000, it being contrary to law.

4. The Honorable Court of Appeals erred in dismissing CA-G.R. SP No. 65163, allegedly for lack of jurisdiction.

Petitioner avers that the CA erred in dismissing his petition which raised both questions of law and fact which are well within its jurisdiction pursuant to Rule 43 of the 1997 Rules of Civil Procedure. According to petitioner the petition raised factual issues which necessitated the review of the records of the re-employed retirees who were allowed by the GSIS to retire under the law of their choice. Petitioner further avers that even if CA-G.R. SP No. 65163 raises only questions of law, the same is still within the jurisdiction of the CA pursuant to Section 31 of Republic Act No. 8291, which provides that appeals from any decision or award by the Board of Trustees shall be governed by Rules 43 and 45 of the 1997 Rules of Civil Procedure.

Respondent, on the other hand, maintains that the proper remedy of petitioner is to file a petition for review under Rule 45 and not under Rule 43, there being only pure questions of law involved in the case. Hence, the CA correctly dismissed the petition before it.

We deal first with the procedural issue raised by petitioner.

Rule 43 of the 1997 Rules of Civil Procedure clearly states:

> Section 1. Scope. - **This Rule shall apply to appeals from** judgments or final orders of the Court of Tax Appeals and from **awards,**

> **judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions**. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act 6657, **Government Service Insurance System**, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law.
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> Section 3. Where to appeal. - **An appeal under this Rule may be taken to the Court of Appeals** within the period and in the manner herein provided, whether the appeal involves **questions of fact**, **of law**, or **mixed questions of fact and law**. (emphasis ours)

In *Posadas-Moya and Associates Construction Co., Inc. v. Greenfield Development Corporation, et al*.,[9] the Court distinguished a question of law from one of fact, thus:

> A **question of law** exists when there is doubt or controversy on what the law is on a certain state of facts. There is a **question of fact** when the doubt or difference arises from the truth or the falsity of the allegations of facts.
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> Explained the Court:
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> > "A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation."

Thus, the question on whether petitioner can retire under RA 660 or RA 8291 is undoubtedly a question of law because it centers on what law to apply in his case considering that he has previously retired from the government under a particular statute and that he was re-employed by the government. These facts are admitted and there is no need for an examination of the probative value of the evidence presented.

As a general rule, appeals on pure questions of law are brought to this Court since

Sec. 5 (2) (e), Art. VIII of the Constitution includes in the enumeration of cases within its jurisdiction "all cases in which only an error or question of law is involved."[10] It should not be overlooked, however, that the same provision vesting jurisdiction in this Court of the cases enumerated therein is prefaced by the statement that it may "review, revise, reverse, modify, or affirm on appeal or certiorari *as the law or the Rules of Court may provide*," the judgments or final orders of lower courts in the cases therein enumerated.[11] Rule 43 of the 1997 Rules of Civil Procedure constitutes an exception to the aforesaid general rule on appeals. Rule 43 provides for an instance where an appellate review solely on a question of law may be sought in the CA instead of this Court.

Undeniably, an appeal to the CA may be taken within the reglementary period to appeal whether the appeal involves questions of fact, law, or mixed questions of fact and law. As such, a **question of fact** or **question of law** *alone* or a **mix question of fact and law** may be appealed to the CA *via* Rule 43. Thus, in *Carpio v. Sulu Resources Development Corporation,*[12] we held:

> According to Section 3 of Rule 43, "[a]n appeal under this Rule may be taken to the Court of Appeals within the period and in the manner herein provided whether the appeal involves questions of fact, of law, or mixed questions of fact and law." **Hence, appeals from quasi-judicial agencies even only on questions of law may be brought to the CA**. (emphasis ours)

However, a remand of the case to the CA would serve no useful purpose, since the core issue in this case, *i.e.*, under which law petitioner can retire, can already be resolved based on the records of the proceedings before the GSIS. A remand would unnecessarily impose on the parties the concomitant difficulties and expenses of another proceeding where they would have to present the same evidence and arguments again. This clearly runs counter to the Rules of Court, which mandates liberal construction of the Rules to attain just, speedy and inexpensive disposition of any action or proceeding.[13]

We now discuss petitioner's arguments on the merits.

It is well settled that the construction given to a statute by an administrative agency charged with the interpretation and application of that statute is entitled to great respect and should be accorded great weight by the courts.[14] In the case at bar, this Court finds that the GSIS' ruling as to which retirement law is applicable to petitioner deserves full faith and credit. Petitioner fails to convince us that there are justifiable reasons to depart from the GSIS' decision in his case.

As pertinently discussed by the GSIS Board of Trustees, the grant of the right to choose a mode of retirement in Presidential Decree (P.D.) No. 1146 is found in Section 13. It was reproduced in Section 11 (c), Rule IV of the Implementing Rules and Regulations on the Revised GSIS Act of 1977, adopted by the System's Board of Trustees pursuant to Board Resolution 223-78, stating that:

> (c) Employees who were in the government service at the time of the effectivity of Presidential Decree No. 1146 shall, at the time of their retirement, have the option to retire under said Decree or under Commonwealth Act No. 186, as previously amended.