

EN BANC

[G.R. NO. 168964, January 23, 2006]

**BANGKO SENTRAL NG PILIPINAS, PETITIONER, VS.
COMMISSION ON AUDIT & RECARREDO S. VALENZUELA,
RESPONDENTS.**

DECISION

YNARES-SANTIAGO, J.:

The instant petition for certiorari seeks to set aside the December 29, 2003 Judgment ^[1] of the Commission on Audit (COA) in Decision No. 2003-163, which allowed the release of respondent Recarredo S. Valenzuela's retirement benefits; as well as its July 21, 2005 Resolution ^[2] denying petitioner Bangko Sentral Ng Pilipinas' (BSP) motion for reconsideration.

On March 1, 1990, respondent was employed by the defunct Air Transportation Unit (ATU) of BSP's Security Investigation and Transportation Department (SITD). As such, he assumed direct accountability over the spare parts and equipment of BSP's aircrafts. ^[3] On July 20, 1993, he executed a certification ^[4] in his capacity as Administrative Services Officer II/Property Supply Officer, assuming responsibility over all the properties issued to the outgoing Chief Aircraft Maintenance Officer/PSO. Upon respondent's retirement on June 30, 1994, however, BSP refused to release his P291,555.00 retirement benefits for failure to settle his property accountabilities. According to BSP's Administrative Services Department (ASD), respondent's remaining unaccounted spare parts consist of 1,314 pieces worth P1,007,263.59. ^[5]

Respondent filed a complaint ^[6] with the Human Resources Management Department (HRMD) of BSP against ASD for the bank's refusal to release his retirement benefits, but HRMD denied the same. ^[7]

On appeal ^[8] by respondent to the COA, the latter rendered a decision allowing the release of the retirement benefits. It held that retirement gratuities cannot be withheld, deducted or applied to the indebtedness of an employee to the government without his/her consent. The dispositive portion thereof, reads:

Wherefore, premises considered, the instant claim is given due course and the payment of the subject amounts to the herein petitioner may now be allowed without prejudice to any action for recovery of claimant's accountabilities, if warranted. ^[9]

BSP filed a motion for reconsideration contending that since respondent (1) assumed responsibility effective September 19, 1992, over all the properties under the custody of the former Aircraft Maintenance Chief; ^[10] and (2) affixed his signature ^[11] in the list of unaccounted properties, ^[12] as of February 28, 1995, he

thereby admitted his indebtedness to BSP. Invoking the case of *Villanueva v. Tantuico, Jr.*, [13] BSP averred that compensation should take place between it and respondent since they are both creditors and debtors in their own right.

On July 21, 2005, the COA denied BSP's motion for reconsideration. [14] Hence, BSP filed the instant petition.

The issue to be resolved is whether or not BSP may validly withhold respondent's retirement benefits and unilaterally apply the same to his indebtedness to the government.

The Court rules in the negative.

In *Cruz v. Tantuico*, [15] it was held that retirement benefits accruing to a public officer may not, without his consent, be withheld and applied to his indebtedness to the government. In the said case, the National Treasurer withheld a portion of the petitioner's retirement benefits to answer for losses arising from her encashment of falsified treasury warrants. In setting aside the directive of the Treasurer, the Court explained that –

x x x no negligence attended the petitioner's encashment of the treasury warrants. Even assuming that she could be held liable for non-compliance with or violation of some rule or regulation, this Court agrees with the petitioner that Section 624 of the Revised Administrative Code cannot be construed to authorize a deduction of the value of the treasury warrants from her retirement benefits. Said section provides:

Section 624. *Retention of salary for satisfaction of indebtedness.* – When any person is indebted to the Government of the Philippine Islands (or Government of the United States), the Insular Auditor may direct the proper officer to withhold the payment of any money due him or his estate, the same to be applied in satisfaction of such indebtedness.

The Solicitor General, in his comment, is in agreement with the petitioner that her retirement pay may not be withheld by administrative fiat to answer for the shortage incurred while in office [Rollo, p. 99.] This has also been the interpretation applied by the respondent COA Acting Secretary in similar cases [Rollo, pp. 62-63.]

That the retirement pay accruing to a public officer may not be withheld and applied to his indebtedness to the government is settled x x x.

The case of *Cruz*, [16] citing *Hunt v. Hernandez*, explained the reason for such policy in this wise:

x x x we are of the opinion that the exemption should be liberally construed in favor of the pensioner. Pension in this case is a bounty flowing from the graciousness of the Government intended to reward past services and, at the same time, to provide the pensioner with the means with which to support himself and his family. Unless otherwise

clearly provided, the pension should inure wholly to the benefit of the pensioner x x x.

The above ruling was reiterated in *Tantuico, Jr. v. Domingo*, [17] and *Government Service Insurance System v. Commission on Audit*, [18] where the Court held that benefits under retirement laws cannot be withheld regardless of the employee's monetary liability to the government. Retirement laws are liberally interpreted in favor of the retiree because the intention is to provide for the retiree's sustenance and comfort when he is no longer capable of earning his livelihood. [19]

Moreover, compensation or set off between respondent's retirement benefits and his alleged liability to BSP cannot be allowed under Section 21, Chapter 4, Subtitle-B (Commission on Audit), Book V of the Revised Administrative Code of 1987, which provides:

Sec. 21. Retention of Money for Satisfaction of Indebtedness to the Government. – When any person is indebted to any government agency, the Commission may direct the proper officer to withhold the payment of any money due such person or his estate to be applied in satisfaction of his indebtedness.

The aforequoted provision originated from Section 624 of the Revised Administrative Code of 1917. In construing Section 624, the Court held in *Villanueva v. Tantuico, Jr.*, [20] that the "indebtedness" contemplated therein pertains to one that is acknowledged by the employee or one that is adjudged by the court. Absent any of these two circumstances, no compensation under Article 1278 of the Civil Code may be had, thus –

While Section 624 of the Revised Administrative Code does indeed authorize the set-off of a person's indebtedness to the Government against "any money due him or his estate to be applied in satisfaction of such indebtedness," that indebtedness must be one that is admitted by the alleged debtor or pronounced by final judgment of a competent court. In such a case, the person and the Government are in their own right both debtors and creditors of each other, and compensation takes place by operation of law in accordance with Article 1278 of the Civil Code. Absent, however, any such categorical admission by an obligor or final adjudication, no legal compensation can take place, as this Court has already had occasion to rule in an early case. Unless admitted by a debtor himself, the conclusion that he is in truth indebted to the Government cannot be definitely and finally pronounced by a Government auditor, no matter how convinced he may be from his examination of the pertinent records of the validity of that conclusion. Such a declaration, that a government employee or officer is indeed indebted to the Government, if it is to have binding authority, may only be made by a court. That determination is after all, plainly a judicial, not an administrative function. No executive officer or administrative body possesses such a power.

In the same vein, Section 265 of the Government Accounting and Auditing Manual explicitly limits the power of COA to retain the retirement benefits of a government employee for the purpose of satisfying his indebtedness only to instances where (1)