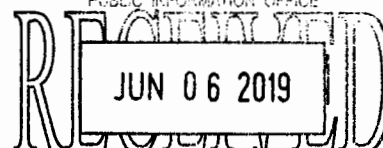




SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



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Republic of the Philippines  
**Supreme Court**  
Manila

**SECOND DIVISION**

**GOVERNMENT SERVICE  
INSURANCE SYSTEM**

**G.R. No. 218097**

Petitioner,

**Present:**

- versus -

CARPIO, J., *Chairperson*,  
PERLAS-BERNABE,  
CAGUIOA,  
REYES, J. JR., and  
LAZARO-JAVIER, JJ.

**APOLINARIO K. DAYMIEL,**  
substituted by his heirs **MADLINE  
D. VILORIA, YOLANDA D. DE  
CASTRO, JOVENA D. ACOJEDO,  
ALBERTO DAYMIEL, MA.  
IMELDA D. GANDOLA, MARIDEL  
D. MORANDANTE\*** and **MA.  
NYMPHA DAYMIEL,**

**Promulgated:**

**11 MAR 2019**

Respondents.

*[Signature]*

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**DECISION**

**REYES, J. JR. J.:**

Before us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision<sup>1</sup> dated February 25, 2014 and the Resolution<sup>2</sup> dated April 28, 2015 of the Court of Appeals-Cagayan De Oro City (CA) in CA-G.R. CV No. 01773-MIN, reversing the ruling of the Regional Trial Court (RTC) of Dipolog City, Branch 8 which dismissed the case for lack of merit.

\* Also referred to as "Maridel D. Morandarte" in some parts of the *rollo*.

<sup>1</sup> Penned by Associate Justice Marie Christine Azcarraga-Jacob, with Associate Justices Edgardo T. Lloren and Edward B. Contreras, concurring; *rollo*, pp. 41-57.

<sup>2</sup> Penned by Associate Justice Edgardo T. Lloren, with Associate Justices Romulo V. Borja and Edward B. Contreras, concurring; *id* at 78-79.

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### Relevant Antecedents

On August 18, 1969, Apolinario K. Daymiel (respondent) served as a casual laborer of the Provincial Engineering Office of the Provincial Government of Zamboanga del Norte. Eventually, respondent assumed the position of Accounting Clerk III until his retirement on July 1, 2003.<sup>3</sup>

Thereupon, respondent applied for retirement benefits before the Government Service Insurance System (GSIS). A Tentative Computation was made pursuant to respondent's application. Initially, GSIS granted respondent a total of 33.65678 years of creditable service. The lump sum payment was equivalent to ₱542,325.00 and the monthly pension amounted to ₱9,038.75,<sup>4</sup> viz.:

LAST NAME: DAYMIEL	FIRST NAME: APOLINARIO
DATE OF RET: 07012003	YEARS OF SERVICE: 33.656678
DATE OF BIRTH: 07011938	AMC: 10,043.67

x x x x

RA 8291: 5-YR LUMP SUM PAYMENT  
542,325.00- 5-YR LS  
9,038.75 PENSION TO START  
5 YRS FROM DOR

x x x x

However, a re-computation was made wherein GSIS credited respondent only with 23.85082 years of service instead of the initial 33.65678. Accordingly, respondent's lump sum payment was decreased to ₱384,295.80 and his monthly pension was pegged at ₱5,886.77.<sup>5</sup>

Unsatisfied with the computation, respondent wrote a letter to the GSIS and inquired as to the legal basis for such computation.

It appears that the re-computation was made as a result of the implementation of Policy and Procedural Guidelines No. 171-03 (PPG No. 171-03) dated March 24, 2003 issued by then GSIS President and General Manager Winston F. Garcia. PPG No. 171-03 was subsequently approved by the GSIS Board of Trustees in Resolution No. 90 dated April 2, 2003.<sup>6</sup>

<sup>3</sup> Id at 42.

<sup>4</sup> Id at 42-43.

<sup>5</sup> Id at 43.

<sup>6</sup> Id.

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Declaratory Relief, Mandamus, and Damages.<sup>7</sup> In his petition, respondent interpreted the provisions of PPG No. 171-03 as gravely prejudicial to him since the starting point in the computation of the creditable service of a retiree shall be the date of the payment of monthly contributions,<sup>8</sup> whereas the starting point as regards Republic Act (R.A.) No. 8291 or The Government Service Insurance System Act of 1997 is the date of original appointment.<sup>9</sup>

Instead of filing an answer, GSIS filed a Motion to Dismiss, citing the grounds of failure to state a cause of action and lack of jurisdiction over the subject matter. GSIS argued that respondent failed to establish how his right was violated and that R.A. No. 8291 vests in the GSIS Board of Trustees the original and exclusive jurisdiction to hear disputes on laws administered by it.<sup>10</sup>

### *Proceedings before the RTC*

The RTC granted the Motion to Dismiss in a Resolution dated November 8, 2004.<sup>11</sup>

However, the RTC reversed its earlier Resolution upon respondent's filing of a Motion for Reconsideration. In an Order<sup>12</sup> dated February 10, 2005, the RTC ruled on the invalidity of Resolution No. 90 and PPG No. 171-03 as the same were not published in the Official Gazette or any newspaper of general circulation. The RTC, likewise, refused to apply the doctrine of primary jurisdiction because it considered the issue raised as a question of law.<sup>13</sup>

GSIS filed its Answer to the petition. Thereafter, trial on the merits ensued.<sup>14</sup>

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<sup>7</sup> Id at 102.

<sup>8</sup> 2. Services, for purposes of computing all the benefits that a member may secure from GSIS shall mean only such services rendered by a member in any government agency, whether national, local or government-owned or controlled corporation under the following conditions:

The member was receiving a fixed basic monthly compensation for such services.

The corresponding monthly premium contributions were timely and currently remitted or paid to the GSIS

<sup>9</sup> SEC. 10. *Computation of Service.*- (a) The computation of service for the purpose of determining the amount of benefits payable under this Act shall be from the date of original appointment/election, including periods of service at different times under one or more employers, those performed overseas under the authority of the Republic of the Philippines, and those that may be prescribed by the GSIS in coordination with the Civil Service Commission.

<sup>10</sup> *Rollo*, pp. 88-101.

<sup>11</sup> Id. at 44.

<sup>12</sup> Id. at 44-45.

<sup>13</sup> Id.

<sup>14</sup> Id. at 45.

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In a Decision<sup>15</sup> dated July 29, 2008, the RTC dismissed the petition for lack of jurisdiction pursuant to Section 30<sup>16</sup> of R.A. No. 8291. The RTC maintained that the GSIS has jurisdiction over the subject matter as the computation of respondent's retirement benefits was in the exercise of its quasi-judicial function. The *fallo* thereof reads:

WHEREFORE, premises considered, the instant complaint/petition is hereby **DISMISSED** without pronouncement as to costs.

SO ORDERED.<sup>17</sup>

A Motion for Reconsideration filed by respondent was denied in a Resolution dated December 22, 2008.<sup>18</sup>

Respondent filed an appeal before the CA.

### *Proceedings before the CA*

In a Decision<sup>19</sup> dated February 25, 2014, the CA reversed and set aside the ruling of the RTC and declared PPG No. 171-03 and Resolution No. 90 null and void. In ruling so, the CA reasoned that since the petition filed before the RTC is one for declaratory relief, the RTC has jurisdiction over the same. On the invalidity of the issuances, the CA reasoned that the same were not published in the Official Gazette or in any newspaper of general circulation. The dispositive portion states:

**WHEREFORE**, premises considered, the 29 July 2008 *Decision* rendered by the Regional Trial Court, Branch 8, 9<sup>th</sup> Judicial Region, Dipolog City is hereby **REVERSED** and **SET ASIDE**.

*PPG No. 171-03* and *Resolution No. 90* are hereby declared **NULL** and **VOID** for lack of publication.

Accordingly, GSIS is hereby **DIRECTED** to re-compute petitioner's retirement benefits to be reckoned from the date of his original appointment in government service beginning in 1969 till his retirement in 2003.

SO ORDERED.<sup>20</sup>

Undaunted, petitioner filed its Motion for Reconsideration, which was denied for lack of merit in a Resolution<sup>21</sup> dated April 28, 2015.

<sup>15</sup> Penned by Judge Porferio E. Mah; id at 102-109.

<sup>16</sup> SEC. 30. *Settlement of Disputes*. - The GSIS shall have original and exclusive jurisdiction to settle any disputes arising under this Act and any other laws administered by the GSIS. x x x x

<sup>17</sup> Id. at 109.

<sup>18</sup> Id. at 47.

<sup>19</sup> Supra note 1.

<sup>20</sup> *Rollo*, p. 56.

<sup>21</sup> Supra note 2.

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### The Issue

The core issue in this case is whether the regular court has jurisdiction over the subject matter of the case.

### The Court's Ruling

Jurisdiction over a subject matter is conferred by the Constitution or the law, and rules of procedure yield to substantive law. Otherwise stated, jurisdiction must exist as a matter of law. Only a statute can confer jurisdiction on courts and administrative agencies.<sup>22</sup> Administrative agencies may be bestowed with quasi-judicial or quasi-legislative powers.

In the exercise of an administrative agency's quasi-judicial powers, the doctrine of primary jurisdiction may be invoked. In the case of *Smart Communications, Inc. v. National Telecommunications Commission*,<sup>23</sup> we explained the import of this doctrine, to wit:

Thus, in cases involving specialized disputes, the practice has been to refer the same to an administrative agency of special competence pursuant to the doctrine of primary jurisdiction. The courts will not determine a controversy involving a question which is within the jurisdiction of the administrative tribunal prior to the resolution of that question by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience and services of the administrative tribunal to determine technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the premises of the regulatory statute administered. x x x

In this case, Section 30 of R.A. No. 8291 vests upon the GSIS the original and exclusive jurisdiction to hear disputes arising from said law or related issuances. Section 14.3 (now Section 27.1) of the Implementing Rules and Regulations (IRR) of R.A. No. 8291 provides that such quasi-judicial power lies with the GSIS Board of Trustees, thus:

SEC. 30. *Settlement of Disputes.* — The GSIS shall have original and exclusive jurisdiction to settle any dispute arising under this Act and any other laws administered by the GSIS.

The Board may designate any member of the Board, or official of the GSIS who is a lawyer, to act as hearing officer to receive evidence, make findings of fact and submit recommendations thereon. The hearing officer shall submit his findings and recommendations, together with all documentary and testimonial evidence to the [B]oard within thirty (30) working days from the time the parties have closed their respective evidence and filed their last pleading. The Board shall decide the case within thirty (30) days from the receipt of the hearing

<sup>22</sup> *Fernandez v. Fulgueras*, 636 Phil. 178, 182 (2010).

<sup>23</sup> 456 Phil. 145, 158 (2003).

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officer's findings and recommendations. The cases heard directly by the Board shall be decided within thirty (30) working days from the time they are submitted by the parties for decision.

x x x x

SEC. 14.3. *Body Vested with Quasi-Judicial Functions.* — The quasi-judicial function of the GSIS shall be vested in its Board of Trustees.

Section 14.1 (now Section 27) of the IRR provides in detail the coverage of such quasi-judicial power, to wit:

SEC. 14.1. *Quasi-Judicial Functions of the GSIS.* — x x x settle any dispute arising under Republic Act No. 8291, Commonwealth Act No. 186, as amended, and other laws administered by the GSIS with respect to:

x x x x

2. Entitlement of members to the following benefits under these Rules:

- (a) Separation benefits
- (b) Unemployment or involuntary separation benefits
- (c) Retirement benefits
- (d) Disability benefits

x x x x

An appeal of the decision of the GSIS Board of Trustees may be filed with the CA *via* Rule 43 of the Rules of Court.<sup>24</sup>

However, the records of the case reveal that what the respondent is seeking for is the nullification of PPG No. 171-03 and Resolution No. 90 on the ground of illegality. While respondent's contention deals with a dispute as to the computation of his retirement benefits, his petition mainly attacks the legality of the assailed issuances, to wit:

- A. A mere policy of the president of a GOCC or Board Resolution cannot supplement, alter, amend or modify a law passed by Congress[;]
- B. A mere policy of the president of a GOCC or Board Resolution cannot provide for new conditions for the availment of the benefits, or delimit the benefits, already granted by law;

<sup>24</sup> SEC. 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 No. 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. (Emphasis supplied)

- C. A mere policy of the president of a GOCC or Board [R]esolution cannot supplant the wisdom of Congress in the passage of law
- D. Even laws cannot impair vested rights and should not have any effect[;]
- E. A mere policy of the president of a GOCC or Board Resolution does not partake of a law, rule or regulation, hence, and especially so if it is not consistent with the law, cannot be utilized as basis for the implementation of the law;
- F. It is the implementing Rules and Regulations, not a mere policy or Board Resolution, which shall be used as a basis in implementing a law passed by Congress; [and]
- G. The said [PPG] No. 171-03 and Board Resolution No. 90 do not appear to have been published.<sup>25</sup>

x x x x

Consistent with the petition filed, the allegations partake of a petition for declaratory relief under Rule 63 of the Rules of Court, to wit:

SEC. 1. *Who may file petition.* — Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.

The requirements of an action for declaratory relief are as follows: (1) there must be a justiciable controversy; (2) the controversy must be between persons whose interests are adverse; (3) the party seeking declaratory relief must have a legal interest in the controversy; and (4) the issue involved must be ripe for judicial determination.<sup>26</sup> Certainly, it is the RTC which is vested with jurisdiction to try such petition. In the case of *Commissioner of Customs v. Hypermix Feeds Corporation*,<sup>27</sup> we reiterated that the determination of whether a rule is issued by an administrative agency contravenes the law or the Constitution is within the jurisdiction of the regular courts.

We find that respondent's petition is sufficient to meet all the requirements.

<sup>25</sup> *Rollo*, pp. 134-135.

<sup>26</sup> *Commissioner of Customs v. Hypermix Feeds Corporation*, 680 Phil. 681, 688-689 (2012).

<sup>27</sup> *Id.* at 689, citing *Smart Communications v. National Telecommunications Commission*, *supra* note 23, at 158-159.

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Firstly, there is justiciable controversy as respondent questions the legality and constitutionality of PPG No. 171-03 and Resolution No. 90, both of which were issued by the GSIS. On this note, we emphasize that the courts are vested by the Constitution with the power of judicial review, including the authority of the regular courts to determine in an appropriate action the validity of the acts of political departments.<sup>28</sup>

Secondly, the issue is between the GSIS, which implements the assailed issuances and the respondent who seeks to claim his retirement benefits.

Thirdly, respondent has legal interest over the case since the amount he seeks to claim would differ because the implementation of R.A. No. 8291 and PPG No. 171-03 and Regulation No. 90 provide for different starting point for the computation of retirement benefits. Application of the latter would decrease his retirement benefits from ₱542,325.00 to ₱342,295.80 considering the varying starting point for the computation of retirement benefits. Under R.A. No. 8291, the reckoning period is the date of original appointment while in PPG No. 171-03 and Resolution No. 90, the starting point is the date of the payment of monthly contributions by a member who was receiving a fixed basic monthly compensation for his services rendered.

Finally, the issue is ripe for judicial determination because litigation is inevitable for the reason that respondent's retirement benefits would be substantially reduced by the implementation of the assailed issuances.<sup>29</sup>

GSIS tried to brush aside the issue of legality of the assailed issuances by focusing on the ultimate consequence should such issuances be declared invalid, *i.e.*, the re-computation of the retirement benefits. However, this is pure incidental to the outcome of the relief prayed for in the action for declaratory relief. It is so precisely because the primary issue was the starting point of the computation of the retirement benefits.

As to the invalidity of the issuances, we affirm the ruling of the CA.

Administrative issuances may be classified into two, *i.e.*, legislative rule and administrative rule. The former is in the matter of subordinate legislation, designed to implement a primary legislation by providing the details thereof. On the other hand, the latter is designed to provide guidelines to the law which the administrative agency is in charge of enforcing.<sup>30</sup>

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<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> *BPI Leasing Corporation v. Court of Appeals*, 461 Phil. 451, 459 (2003).

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As to the import of these issuances, the case of *Commissioner of Internal Revenue v. Michel J. Lhuillier Pawnshop, Inc.*<sup>31</sup> is instructive:

When an administrative rule is merely interpretative in nature, its applicability needs nothing further than its bare issuance, for it gives no real consequence more than what the law itself has already prescribed. When, on the other hand, the administrative rule goes beyond merely providing for the means that can facilitate or render least cumbersome the implementation of the law but substantially increases the burden of those governed, it behooves the agency to accord at least to those directly affected a chance to be heard, and thereafter to be duly informed, before that new issuance is given the force and effect of law.

Clearly, PPG No. 171-03 is a legislative rule. It does not merely provide guidelines to R.A. No. 8291, but in fact creates a burden upon those who are governed in its implementation. Specifically, PPG No. 171-03 supplies the conditions for the starting point when services are rendered, for the purposes of computing all benefits under R.A. No. 8291 and the same requires: (a) the member was receiving a fixed basic monthly compensation; and (b) monthly contributions were timely and correctly paid or remitted. However, there was no condition and definition provided under R.A. No. 8291; “services” was neither defined nor delineated for the purposes of computing benefits. In other words, PPG No. 171-03 provides the details for the starting point of the computation of GSIS benefits. It effectively supplants the period prescribed under R.A. No. 8291. Parenthetically, Regulation No. 90, which approved PPG No. 171-03 is, likewise, of the same character.

As PPG No. 171-03 and the subsequent Resolution No. 90 are legislative rules, publication is indispensable.

Publication of statutes satisfies the constitutional right of the people to due process. It keeps the citizenry informed and notified of various laws which are to regulate their actions and conduct. Without such notice and publication, there would be no basis for the application of the maxim *ignorantia legis non excusat*.<sup>32</sup>

Considering that PPG No. 171-03 and the subsequent Resolution No. 90 are legislative issuances, necessitating publication for their effectivity and the undisputed fact of their non-publication, the assailed issuances must be struck down for being unconstitutional.

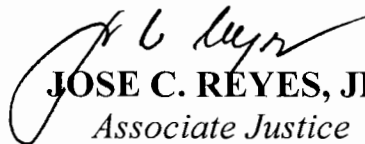
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<sup>31</sup> 453 Phil. 1043, 1058 (2003).

<sup>32</sup> *Tañada v. Tuvera*, 220 Phil. 422, 432-433 (1985).

**WHEREFORE**, premises considered, the instant petition is hereby **DENIED**. Accordingly, the Decision dated February 25, 2014 and the Resolution dated April 28, 2015 of the Court of Appeals-Cagayan de Oro City in CA-G.R. CV No. 01773-MIN are **AFFIRMED**.

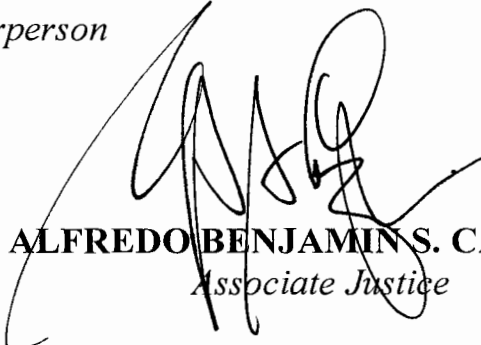
**SO ORDERED.**

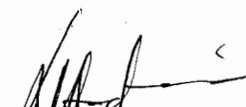
  
**JOSE C. REYES, JR.**  
*Associate Justice*

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
*Senior Associate Justice*  
*Chairperson*

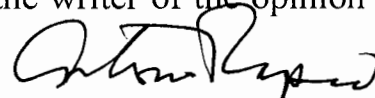
  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*

  
**ALFREDO BENJAMINS S. CAGUIOA**  
*Associate Justice*

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ANTONIO T. CARPIO**  
*Senior Associate Justice*  
*Chairperson, Second Division*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
LUCAS P. BERSAMIN  
*Chief Justice*

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