487 Phil. 531

EN BANC

[G.R. No. 148208, December 15, 2004]

CENTRAL BANK (NOW *BANGKO SENTRAL* NG PILIPINAS) EMPLOYEES ASSOCIATION, INC., PETITIONER, VS. BANGKO SENTRAL NG PILIPINAS AND THE EXECUTIVE SECRETARY, RESPONDENTS.

DECISION

PUNO, J.:

Can a provision of law, initially valid, become **subsequently** unconstitutional, on the ground that its **continued operation** would violate the equal protection of the law? We hold that with the passage of the subsequent laws amending the charter of seven (7) other governmental financial institutions (GFIs), the continued operation of the last *proviso* of Section 15(c), Article II of Republic Act (R.A.) No. 7653, constitutes invidious discrimination on the **2,994 rank-and-file employees** of the *Bangko Sentral ng Pilipinas* (BSP).

I.

The Case

First the facts.

On July 3, 1993, R.A. No. 7653 (the New Central Bank Act) took effect. It abolished the old Central Bank of the Philippines, and created a new BSP.

On June 8, 2001, almost **eight years after** the effectivity of R.A. No. 7653, petitioner Central Bank (now BSP) Employees Association, Inc., filed a petition for prohibition against BSP and the Executive Secretary of the Office of the President, to restrain respondents from further implementing the last *proviso* in Section 15(c), Article II of R.A. No. 7653, on the ground that it is unconstitutional.

Article II, Section 15(c) of R.A. No. 7653 provides:

> Section 15. *Exercise of Authority* -In the exercise of its authority, the Monetary Board shall:
>
> xxx xxx xxx
>
> (c) establish a human resource management system which shall govern the selection, hiring, appointment, transfer, promotion, or dismissal of all personnel. Such system shall aim to establish professionalism and excellence at all levels of the *Bangko Sentral* in accordance with sound principles of management.
>
> A compensation structure, based on job evaluation studies and wage surveys and subject to the Board's approval, shall be instituted as an integral component of the *Bangko Sentral*'s human resource development program: *Provided*, That the Monetary Board shall make its own system conform as closely as possible with the principles provided for under Republic Act No. 6758 [Salary Standardization Act]. ***Provided, however*, That compensation and wage structure of employees whose positions fall under salary grade 19 and below shall be in accordance with the rates prescribed under Republic Act No. 6758.** [emphasis supplied]

The **thrust of petitioner's challenge** is that the above *proviso* makes an **unconstitutional cut** between two classes of employees in the BSP, *viz*: (1) the BSP **officers** or those exempted from the coverage of the Salary Standardization Law (SSL) (exempt class); and (2) the **rank-and-file** (Salary Grade [SG] 19 and below), or those not exempted from the coverage of the SSL (non-exempt class). It is contended that this classification is "a classic case of class legislation," allegedly not based on substantial distinctions which make real differences, but solely on the SG of the BSP personnel's position. Petitioner also claims that it is not germane to the purposes of Section 15(c), Article II of R.A. No. 7653, the most important of which is to establish professionalism and excellence **at all levels** in the BSP.[1] Petitioner offers the following sub-set of arguments:

a. the legislative history of R.A. No. 7653 shows that the questioned *proviso* does not appear in the original and amended versions of House Bill No. 7037, nor in the original version of Senate Bill No. 1235; [2]

b. subjecting the compensation of the BSP rank-and-file employees to the rate prescribed by the SSL actually defeats the purpose of the law[3] of establishing professionalism and excellence **at all levels** in the BSP; [4] (*emphasis supplied*)

c. the assailed *proviso* was the product of amendments introduced during the deliberation of Senate Bill No. 1235, without showing its relevance to the objectives of the law, and even admitted by one senator as discriminatory against low-salaried employees of the BSP;[5]

d. GSIS, LBP, DBP and SSS personnel are all exempted from the coverage of the SSL; thus within the class of rank-and-file personnel of government financial institutions (GFIs), the BSP rank-and-file are also discriminated upon;[6] and

e. the assailed *proviso* has caused the demoralization among the BSP rank-and-file and resulted in the gross disparity between their compensation and that of the BSP officers'.[7]

In sum, **petitioner posits** that the classification is not reasonable but arbitrary and capricious, and violates the equal protection clause of the Constitution.[8] Petitioner also stresses: (a) that R.A. No. 7653 has a separability clause, which will allow the declaration

of the unconstitutionality of the *proviso* in question without affecting the other provisions; and (b) the urgency and propriety of the petition, as some **2,994 BSP rank-and-file employees** have been **prejudiced since 1994** when the *proviso* was implemented. Petitioner concludes that: (1) since the inequitable *proviso* has no force and effect of law, respondents' implementation of such amounts to lack of jurisdiction; and (2) it has no appeal nor any other plain, speedy and adequate remedy in the ordinary course except through this petition for prohibition, which this Court should take cognizance of, considering the transcendental importance of the legal issue involved.[9]

Respondent **BSP**, in its comment,[10] contends that the provision does not violate the equal protection clause and can stand the constitutional test, provided it is construed in harmony with other provisions of the same law, such as "fiscal and administrative autonomy of BSP," and the mandate of the Monetary Board to "establish professionalism and excellence at all levels in accordance with sound principles of management."

The **Solicitor General**, on behalf of respondent Executive Secretary, also defends the validity of the provision. Quite simplistically, he argues that the classification is based on actual and real differentiation, even as it adheres to the enunciated policy of R.A. No. 7653 to establish professionalism and excellence within the BSP subject to prevailing laws and policies of the national government.[11]

II.

Issue

Thus, the **sole** - albeit significant - **issue** to be resolved in this case is whether the last paragraph of Section 15(c), Article II of R.A. No. 7653, runs afoul of the constitutional mandate that "No person shall be. . . denied the equal protection of the laws."[12]

III.

Ruling

A. **UNDER THE PRESENT STANDARDS OF EQUAL PROTECTION, SECTION 15(c), ARTICLE II OF R.A. NO. 7653 IS VALID.**

Jurisprudential standards for equal protection challenges indubitably show that the classification created by the questioned *proviso*, on its face and in its operation, bears no constitutional infirmities.

It is settled in constitutional law that the "equal protection" clause does not prevent the Legislature from establishing classes of individuals or objects upon which different rules shall operate - so long as the classification is not unreasonable. As held in **Victoriano v. Elizalde Rope Workers' Union**,[13] and reiterated in a long line of cases:[14]

> The guaranty of equal protection of the laws is not a guaranty of equality in the application of the laws upon all citizens of the state. It is not, therefore, a requirement, in order to avoid the constitutional prohibition against inequality, that every man, woman and child should be affected alike by a statute. Equality of operation of statutes does not mean indiscriminate operation on persons merely as such, but on persons according to the circumstances surrounding them. It guarantees equality, not identity of rights. The Constitution does not require that things which are different in fact be treated in law as though they were the same. The equal protection clause does not forbid discrimination as to things that are different. It does not prohibit legislation which is limited either in the object to which it is directed or by the territory within which it is to operate.
>
> The equal protection of the laws clause of the Constitution allows classification. Classification in law, as in the other departments of knowledge or practice, is the grouping of things in speculation or practice because they agree with one another in certain particulars. A law is not invalid because of simple inequality. The very idea of classification is that of inequality, so that it goes without saying that the mere fact of inequality in no manner determines the matter of constitutionality. All that is required of a valid classification is that it be reasonable, which means that the classification should be based on substantial distinctions which make for real differences, that it must be germane to the purpose of the law; that it must not be limited to existing conditions only; and that it must apply equally to each member of the class. This Court has held that the standard is satisfied if the classification or distinction is based on a reasonable foundation or rational basis and is not palpably arbitrary.
>
> In the exercise of its power to make classifications for the purpose of enacting laws over matters within its jurisdiction, the state is recognized as enjoying a wide range of discretion. It is not necessary that the classification be based on scientific or marked differences of things or in their relation. Neither is it necessary that the classification be made with mathematical nicety. Hence, legislative classification may in many cases properly rest on narrow distinctions, for the equal protection guaranty does not preclude the legislature from recognizing degrees of evil or harm, and legislation is addressed to evils as they may appear. (*citations omitted*)

Congress is allowed a wide leeway in providing for a valid classification.[15] The equal protection clause is not infringed by legislation which applies only to those persons falling within a specified class.[16] If the groupings are characterized by substantial distinctions that make real differences, one class may be treated and regulated differently from another.[17] The classification must also be germane to the purpose of the law and must apply to all those belonging to the same class.[18]

In the case at bar, it is clear in the legislative deliberations that the exemption of officers (SG 20 and above) from the SSL was intended to address the BSP's lack of competitiveness in terms of attracting competent officers and executives. It was not intended to discriminate against the rank-and-file. If the end-result did in fact lead to a disparity of treatment between the officers and the rank-and-file in terms of salaries and benefits, the discrimination or distinction has a rational basis and is not palpably, purely, and entirely arbitrary in the legislative sense. [19]

That the provision was a product of amendments introduced during the deliberation of the Senate Bill does not detract from its validity. As early as 1947 and reiterated in subsequent cases,[20] this Court has subscribed to the conclusiveness of an enrolled bill to refuse invalidating a provision of law, on the ground that the bill from which it originated contained no such provision and

was merely inserted by the bicameral conference committee of both Houses.

Moreover, it is a fundamental and familiar teaching that all reasonable doubts should be resolved in favor of the constitutionality of a statute.[21] An act of the legislature, approved by the executive, is presumed to be within constitutional limitations.[22] To justify the nullification of a law, there must be a clear and unequivocal breach of the Constitution, not a doubtful and equivocal breach.[23]

B. **THE ENACTMENT, HOWEVER, OF SUBSEQUENT LAWS - EXEMPTING ALL OTHER RANK-AND-FILE EMPLOYEES OF GFIs FROM THE SSL - RENDERS THE CONTINUED APPLICATION OF THE CHALLENGED PROVISION A VIOLATION OF THE EQUAL PROTECTION CLAUSE.**

While R.A. No. 7653 started as a valid measure well within the legislature's power, we hold that **the enactment of subsequent laws exempting all rank-and-file employees of other GFIs leeched all validity out of the challenged *proviso*.**

1. **The concept of relative constitutionality.**

The constitutionality of a statute cannot, in every instance, be determined by a mere comparison of its provisions with applicable provisions of the Constitution, since the statute may be constitutionally valid as applied to one set of facts and invalid in its application to another.[24]

A statute valid at one time may become void at another time because of **altered circumstances.**[25] Thus, if a statute in its practical operation becomes arbitrary or confiscatory, its validity, even though affirmed by a former adjudication, is open to inquiry and investigation in the light of **changed conditions.**[26]

Demonstrative of this doctrine is **Vernon Park Realty v. City of Mount Vernon**,[27] where the Court of Appeals of New York declared as unreasonable and arbitrary a zoning ordinance which placed the plaintiff's property in a residential district, although it was located in the center of a business area. Later amendments to the ordinance then prohibited the use of the property except for parking and storage of automobiles, and service station within a parking area. The Court found the ordinance to constitute an invasion of property rights which was contrary to constitutional due process. It ruled:

> While the common council has the unquestioned right to enact zoning laws respecting the use of property in accordance with a well-considered and comprehensive plan designed to promote public health, safety and general welfare, such power is subject to the constitutional limitation that it may not be exerted arbitrarily or unreasonably and this is so whenever the zoning ordinance precludes the use of the property for any purpose for which it is reasonably adapted. **By the same token, an ordinance valid when adopted will nevertheless be stricken down as invalid when, at a later time, its operation under changed conditions proves confiscatory** such, for instance, as when the greater part of its value is destroyed, for which the courts will afford relief in an appropriate case.[28] (*citations omitted, emphasis supplied*)

In the Philippine setting, this Court declared the continued enforcement of a valid law as unconstitutional as a consequence of **significant changes** in circumstances. **Rutter v. Esteban**[29] upheld the constitutionality of the moratorium law - its enactment and operation being a valid exercise by the State of its police power[30] - but also ruled that the **continued enforcement of the otherwise valid law would be unreasonable and oppressive.** It noted the subsequent changes in the country's business, industry and agriculture. Thus, the law was set aside because its continued operation would be grossly discriminatory and lead to the oppression of the creditors. The landmark ruling states:[31]

> The question now to be determined is, is the period of **eight (8) years** which Republic Act No. 342 grants to debtors of a monetary obligation contracted before the last global war and who is a war sufferer with a claim duly approved by the Philippine War Damage Commission reasonable under the present circumstances?
>
> It should be noted that Republic Act No. 342 only extends relief to debtors of prewar obligations who suffered from the ravages of the last war and who filed a claim for their losses with the Philippine War Damage Commission. It is therein provided that said obligation shall not be due and demandable for a period of eight (8) years from and after settlement of the claim filed by the debtor with said Commission. The purpose of the law is to afford to prewar debtors an opportunity to rehabilitate themselves by giving them a reasonable time within which to pay their prewar debts so as to prevent them from being victimized by their creditors. While it is admitted in said law that since liberation conditions have gradually returned to normal, this is not so with regard to those who have suffered the ravages of war and so it was therein declared as a policy that as to them the debt moratorium should be continued in force (Section 1).
>
> But we should not lose sight of the fact that these obligations had been pending since 1945 as a result of the issuance of Executive Orders Nos. 25 and 32 and at present their enforcement is still inhibited because of the enactment of Republic Act No. 342 and would continue to be unenforceable during the eight-year period granted to prewar debtors to afford them an opportunity to rehabilitate themselves, which in plain language means that the creditors would have to observe a vigil of at least twelve (12) years before they could effect a liquidation of their investment dating as far back as 1941. his period seems to us unreasonable, if not oppressive. While the purpose of Congress is plausible, and should be commended, the relief accorded works injustice to creditors who are practically left at the mercy of the debtors. Their hope to effect collection becomes extremely remote, more so if the credits are unsecured. And the injustice is more patent when, under the law, the debtor is not even required to pay interest during the operation of the relief, unlike similar statutes in the United States.
>
> xxx xxx xxx
>
> In the face of the foregoing observations, and consistent with what we believe to be as the only course dictated by justice, fairness and righteousness, we feel that the only way open to us under the present circumstances is to declare that the continued operation and enforcement of Republic Act No. 342 at **the present time is**

> **unreasonable and oppressive, and should not be prolonged a minute longer, and, therefore, the same should be declared null and void and without effect.** (emphasis supplied, citations omitted)

2. **Applicability of the equal protection clause.**

In the realm of equal protection, the U.S. case of **Atlantic Coast Line R. Co. v. Ivey**[32] is illuminating. The Supreme Court of Florida ruled against the continued application of statutes authorizing the recovery of double damages plus attorney's fees against railroad companies, for animals killed on unfenced railroad right of way without proof of negligence. Competitive motor carriers, though creating greater hazards, were not subjected to similar liability because they were **not yet in existence** when the statutes were enacted. The Court ruled that the statutes became invalid as denying "equal protection of the law," in view of **changed conditions since their enactment.**

In another U.S. case, **Louisville & N.R. Co. v. Faulkner,**[33] the Court of Appeals of Kentucky declared unconstitutional a provision of a statute which imposed a duty upon a railroad company of proving that it was free from negligence in the killing or injury of cattle by its engine or cars. **This, notwithstanding that the constitutionality of the statute, enacted in 1893, had been previously sustained.** Ruled the Court:

> The constitutionality of such legislation was sustained because it applied to all similar corporations and had for its object the safety of persons on a train and the protection of property…. Of course, there were no automobiles in those days. The **subsequent** inauguration and development of transportation by motor vehicles on the public highways by common carriers of freight and passengers created even greater risks to the safety of occupants of the vehicles and of danger of injury and death of domestic animals. Yet, under the law the operators of that mode of competitive transportation are not subject to the same extraordinary legal responsibility for killing such animals on the public roads as are railroad companies for killing them on their private rights of way.
>
> The Supreme Court, speaking through Justice Brandeis in Nashville, C. & St. L. Ry. Co. v. Walters, 294 U.S. 405, 55 S.Ct. 486, 488, 79 L.Ed. 949, stated, "**A statute valid when enacted may become invalid by change in the conditions to which it is applied.** The police power is subject to the constitutional limitation that it may not be exerted arbitrarily or unreasonably." A number of prior opinions of that court are cited in support of the statement. The State of Florida for many years had a statute, F.S.A. § 356.01 et seq. imposing extraordinary and special duties upon railroad companies, among which was that a railroad company was liable for double damages and an attorney's fee for killing livestock by a train without the owner having to prove any act of negligence on the part of the carrier in the operation of its train. In Atlantic Coast Line Railroad Co. v. Ivey, it was held that the changed conditions brought about by motor vehicle transportation rendered the statute unconstitutional since if a common carrier by motor vehicle had killed the same animal, the owner would have been required to prove negligence in the operation of its equipment. Said the court, "This certainly is not equal protection of the law."[34] (*emphasis supplied*)

Echoes of these rulings resonate in our case law, *viz*:

> [C]ourts are not confined to the language of the statute under challenge in determining whether that statute has any discriminatory effect. **A statute nondiscriminatory on its face may be grossly discriminatory in its operation.** Though the law itself be fair on its face and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution.[35] (*emphasis supplied, citations omitted*)
>
> [W]e see **no difference between a law which denies equal protection and a law which permits of such denial.** A law may appear to be fair on its face and impartial in appearance, yet, if it permits of unjust and illegal discrimination, it is within the constitutional prohibition….. In other words, statutes may be adjudged unconstitutional because of their effect in operation…. If a law has the effect of denying the equal protection of the law it is unconstitutional. ….[36] (*emphasis supplied, citations omitted*

3. **Enactment of R.A. Nos. 7907 + 8282 + 8289 + 8291 + 8523 + 8763 + 9302 = consequential unconstitutionality of challenged *proviso*.**

According to petitioner, the last *proviso* of Section 15(c), Article II of R.A. No. 7653 is also violative of the equal protection clause because after it was enacted, the charters of the GSIS, LBP, DBP and SSS were also amended, but the personnel of the latter GFIs were all exempted from the coverage of the SSL.[37] Thus, within the class of rank-and-file personnel of GFIs, the BSP rank-and-file are also discriminated upon.

Indeed, we take judicial notice that after the new BSP charter was enacted in 1993, Congress also undertook the amendment of the charters of the GSIS, LBP, DBP and SSS, and three other GFIs, from 1995 to 2004, *viz*:

1. R.A. No. 7907 (1995) for Land Bank of the Philippines (LBP);
2. R.A. No. 8282 (1997) for Social Security System (SSS);
3. R.A. No. 8289 (1997) for Small Business Guarantee and Finance Corporation, (SBGFC);
4. R.A. No. 8291 (1997) for Government Service Insurance System (GSIS);
5. R.A. No. 8523 (1998) for Development Bank of the Philippines (DBP);
6. R.A. No. 8763 (2000) for Home Guaranty Corporation (HGC);[38] and
7. R.A. No. 9302 (2004) for Philippine Deposit Insurance Corporation (PDIC).

It is noteworthy, as petitioner points out, **that the subsequent charters of the seven other GFIs share this common *proviso*:** a blanket exemption of **all their employees** from the coverage of the SSL, expressly or impliedly, as illustrated below:

1. **LBP (R.A. No. 7907)**

Section 10. Section 90 of [R.A. No. 3844] is hereby amended to read as follows:

Section 90. *Personnel*. -

xxx xxx xxx

All positions in the Bank shall be governed by a compensation, position classification system and qualification standards approved by the Bank's Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the private sector and shall be subject to periodic review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. **The Bank shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards.** It shall however endeavor to make its system conform as closely as possible with the principles under Republic Act No. 6758. (*emphasis supplied*)

xxx xxx xxx

2. **SSS (R.A. No. 8282)**

Section 1. [Amending R.A. No. 1161, Section 3(c)]:

xxx xxx xxx

(c)The Commission, upon the recommendation of the SSS President, shall appoint an actuary and such other personnel as may [be] deemed necessary; fix their reasonable compensation, allowances and other benefits; prescribe their duties and establish such methods and procedures as may be necessary to insure the efficient, honest and economical administration of the provisions and purposes of this Act: *Provided, however*, That the personnel of the SSS below the rank of Vice President shall be appointed by the SSS President: *Provided, further*, That the personnel appointed by the SSS President, except those below the rank of assistant manager, shall be subject to the confirmation by the Commission; *Provided further*, That the personnel of the SSS shall be selected only from civil service eligibles and be subject to civil service rules and regulations: *Provided, finally*, **That the SSS shall be exempt from the provisions of Republic Act No. 6758 and Republic Act No. 7430.** (*emphasis supplied*)

3. **SBGFC (R.A. No. 8289)**

Section 8. [Amending R.A. No. 6977, Section 11]:

xxx xxx xxx

The Small Business Guarantee and Finance Corporation shall:

xxx xxx xxx

(e) **notwithstanding the provisions of Republic Act No. 6758, and Compensation Circular No. 10, series of 1989** issued by the Department of Budget and Management, **the Board of Directors of SBGFC shall have the authority to extend to the employees and personnel thereof the allowance and fringe benefits similar to those extended to and currently enjoyed by the employees and personnel of other government financial institutions.** (*emphases supplied*)

4. **GSIS (R.A. No. 8291)**

Section 1. [Amending Section 43(d)].

xxx xxx xxx

Sec. 43. *Powers and Functions of the Board of Trustees*. - The Board of Trustees shall have the following powers and functions:

xxx xxx xxx

(d) upon the recommendation of the President and General Manager, to approve the GSIS' organizational and administrative structures and staffing pattern, and to establish, fix, review, revise and adjust the appropriate compensation package for the officers and employees of the GSIS with reasonable allowances, incentives, bonuses, privileges and other benefits as may be necessary or proper for the effective management, operation and administration of the **GSIS, which shall be exempt from Republic Act No. 6758, otherwise known as the Salary Standardization Law and Republic Act No. 7430, otherwise known as the Attrition Law.** (*emphasis supplied*)

xxx xxx xxx

5. **DBP (R.A. No. 8523)**

Section 6. [Amending E.O. No. 81, Section 13]:

Section 13. *Other Officers and Employees*. - The Board of Directors shall provide for an organization and staff of officers and employees of the Bank and upon recommendation of the President of the Bank, fix