I

Jose T. Valenzuela, etc., Plaintiff-Appellant, vs. Jose I. Bakani, Defendant-Appellee G. R. No. L-4689, August 31, 1953.

CIVIL CODE; CONSIGNATION BY THE OBLIGOR OF THE THING DUE.—J sold to B eight parcels of land for the sum of ₱13,490 but reserving to himself (J) the right to repurchase them within seven years for the same consideration and to remain in the land as leasee. Later on J and B executed another agreement extending the period of repurchase to ten years and reducing the annual rental. J then transferred his rights over the land to A binding himself at the same time to obtain the cancellation of the sale in favor of B. J through his attorney wrote a letter to B offering the sum of ₱13,490 as payment of repurchase price and warned that if no answer was received in ten days B would be considered as having refused to receive said payment and to reconvey the property in which case J would institute the proper action. This was followed by another letter stating that if there is no answer, B rejected the payment offered and refused to reconvey the property to J. Whereupon J instituted an action compelling B to execute the proper deed of resale. In the complaint it is alleged that J was depositing with the Clerk of Court the sum of ₱15,372.50 to cover the amount of the repurchase price and the unpaid rentals. The lower court ruled that there was no valid consignation on the ground that B did not give previous notice of the judicial consignation in conformity with Article 1177 of the old Code. It was argued by the appellant on the other hand, that the service of the summons and a copy of the complaint upon the creditor constitute a sufficient notice. *HELD*: The latter's contention is correct. In the case of Alejandro Andres, et al. vs. Court of Appeals, et al., December 29, 1949, 47 O.G. 2876, this Court made the following applicable pronouncement: "The petitioners also question the validity and regularity of the consignation in court made by respondents of the sum of ₱5,500.00. Suffice it to say on this point that after the rejection by the petitioner of the valid tender made by the respondents, the latter filed the corresponding complaint in court accompanying the filing of the suit with the consignation of the money in court and alleging and mentioning said consignation in the complaint. This was sufficient notice to the petitioners of the consignation so that if they wanted to receive that money from the court in return for a reconveyance of the property in question, they could have done so." Again, in Duñgao, et al. v. Roque, et al., G. R. Nos. L-4140 and L-4141, decided on December 29, 1951, this Court held: "How the second notice is to be effected is not specified. The usual method is, when the consignation is followed by the filing of a suit, through service to the defendant of the summons accompanied by a copy of the complaint." The consignation being thus valid, Valenzuela was released from any further obligation regarding the repurchase price, and it consequently became the duty of the appellee to execute the necessary deed of reconveyance in favor of Valenzuela, now subrogated by Florencio H. Araullo.

Francisco M. Ramos for intervenor-appellant
Valeriano Silva for plaintiff-appellant
Ed. Gutierrez David for defendant-appellee

DECISION

PARAS, C. J.:

On May 6, 1938, Jose T. Valenzuela sold to Jose I. Bakani, for the sum of ₱13,490.00 eight parcels of land situated in the municipalities of Guagua and Lubao, province of Pampanga, and covered by original certificates of title Nos. 21839, 21840, 21848 and 21850 of the Registry of Deeds of Pampanga, Valenzuela reserving to himself the right to repurchase within seven years for the same consideration, and to remain on the land as lessee at an annual rental of ₱1,100.00 beginning May 1939. On May 22, 1943, Valenzuela and Bakani executed another agreement extending the period of repurchase to ten years from May 16, 1943, and reducing the annual rental to ₱867.00. On February 16, 1944, Valenzuela transferred his rights to the land to Florencio H. Araullo, binding himself at the same time to obtain the cancellation of the sale in favor of Bakani. On March 3, 1944, Valenzuela, thru Atty. Valeriano Silva, addressed a letter to Bakani, offering the sum of ₱13,490.00 as payment of the repurchase price, and warning that if no answer was received in ten days, Bakani would be considered as having refused to receive said payment and to reconvey the property, in which case Valenzuela would institute the proper action. This was followed by another letter, dated March 21, 1944, sent to Bakani by Valenzuela through Atty. Silva, calling attention to the previous letter and admonishing that if no answer was received from Bakani in five days, the corresponding action would be filed. In his answer dated March 24, 1944, Bakani rejected the payment offered and refused to reconvey the property to Valenzuela. Whereupon, on March 31, 1944, Valenzuela instituted the present action in the Court of First Instance of Pampanga, to compel Bakani to execute the proper deed of resale. In paragraph 7 of the complaint, it is alleged that the plaintiff was depositing with the clerk of court the sum of ₱15,372.50 to cover the amount of the repurchase price (₱13,490.00), the unpaid rentals up to March, 1944 (₱1,882.50), and the expenses in connection with the contract (₱200.00), and that the said amount was at the disposal of Bakani. Subsequently Florencio H. Araullo, who had already acquired the rights of Valenzuela, was allowed to intervene in the case. In his decision dated May 10, 1950, the trial judge held that there was no valid consignation on the part of Valenzuela, and accordingly gave the following judgment:

> "WHEREOF, as prayed for by the intervenor, the defendant is hereby ordered to execute a deed of resale in favor of the intervenor FLORENCIO H. ARAULLO over the eight parcels of land in question and now described in, and recorded under Transfer Certificates of Title Nos. 74, 75, 76 and 77 of the Registry of Deeds of Pampanga, upon payment by said intervenor to the defendant of the sum of THIRTEEN THOUSAND FOUR HUNDRED NINETY (₱13,490.00) PESOS, in actual currency; and the intervenor is ordered to pay the defendant the sum of ₱960.00 as part of the rentals due on May 16, 1943; plus the yearly rentals of ₱867.00 from May 15, 1944 until the repurchase of the properties be accomplished, with legal interests thereon from their respective dates of mtaurity (May 15 of every year) until fully paid, without pronouncement as to costs."

The plaintiff Jose T. Valenzuela and the intervenor Florencio H. Araullo have appealed. After the death of Valenzuela he was in due time substituted by the administratrix of his estate, Feliza Malicsi Vda. de Valenzuela.

As pointed out in the appealed decision, the defendant-appellee, Jose I. Bakani, contended that the amount offered and consigned in court by the plaintiff-appellant was not the price of the sale with *pacto de retro*, that the consignation was not in accordance with law, and that by virtue of the second agreement of May 22, 1943, the original contract of sale with right of repurchase was converted into an absolute deed. The first and second points were overruled by the trial judge. As to the first, it was correctly ruled that the Japanese military notes were legal tender in the Philippines during the Japanese occupation. As to the third, the agreement of May 22, 1943, expressly stipulated that "se extienda el plazo del referido retracto a diez (10) años contados desde el May 16, 1943."

The important issue that arises, as the appellants so emphasize, is whether or not the trial court erred in holding that there was no valid consignation. Its ruling was based on the premise that Valenzuela did not give previous notice of the judicial consignation in conformity with article 1177 of the old Civil Code providing that, "In order that the consignation of the thing due may release the obligator, previous notice thereof must be given to the persons interested in the performance of the obligation." Upon the other hand, it is argued for the appellants that the service of the summons and copy of the complaint upon the appellee constituted sufficient notice. The latter's contention is correct. In the case of Alejandro Andres, et al. vs. Court of Appeals, et al., December 29, 1949, 49 O. G. 2876, this Court made the following applicable pronouncement: "The petitioners also question the validity and regularity of the consignation in court made by respondents of the sum

of ₱5,500.00. Suffice it to say on this point that after the rejection by the petitioners of the valid tender made by the respondents, the latter filed the corresponding complaint in court accompanying the filing of the suit with the consignation of the money in court and alleging and mentioning said consignation in the complaint. This was sufficient notice to the petitioners of the consignation so that if they wanted to receive that money from the court in return for a reconveyance of the property in question, they could have done so." Again, in Duñgao ,et al. v. Roque, et al., G. R. Nos. L-4140 and L-4141, decided on December 29, 1951, this Court held: "How the second notice is to be effected is not specified. The usual method is, when the consignation is followed by the filing of a suit, through service to the defendant of the summons accompanied by a copy of the complaint."

The consignation being thus valid, Valenzuela was released from any further obligation regarding the repurchase price, and it consequently became the duty of the appellee to execute the necessary deed of reconveyance in favor of Valenzuela, now subrogated by Florencio H. Araullo. It is noteworthy that the amount deposited in court covered not only the repurchase price but also the rentals due up to the date of the consignation, plus the necessary expenses.

Wherefore, the appealed judgment is reversed and the appellee, Jose I. Bakani, is hereby ordered to execute, within ninety days from the finality of this decision, the proper deed of reconveyance covering the properties herein involved, in favor of Florencio H. Araullo. So ordered without pronouncement as to costs.

Bengzon, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo, and *Labrador,* JJ, concur.

PABLO, M., disidente:

Yo opino que la decision del Juzgado de Primera Instancia debe confirmarse, y no ordenar al demandado Bakani a otorgar la escritura de reventa sin recibir nada, considerando buena y legitima la consignacion verificada por Valenzuela en 31 de marzo de 1944 al presentar la demanda.

La escritura otorgada por las partes en 6 de mayo de 1938, decia que la recompra seria en la suma de ₱13,490.00 pesos filipinos, y no en papel moneda japonesa; al tiempo de otorgarse la escritura, a nadie se le ocurria que vendrian los japoneses a ocupar las Islas; por lo tanto, el demandado Bakani tiene derecho a exigir que la recompra se haga con moneda filipina, y no con otra, de acuerdo con el articulo 1090 del Codigo Civil.

En la escritura otorgada en 22 de mayo de 1943 (Exh. B) no se estipulo sobre el precio de la recompra, ni en su cantidad, ni en su calidad. El parrafo que enmendo la primera escritura dice asi:

> "Que yo el VENDEDOR Y COMPRADOR A RETRO convenimos por el presente en que: (1.o) SE EXTIENDA EL PLAZO DEL REFERIDO RETRACTO A DIEZ (10) AÑOS CONTADOS DESDE EL MAYO 16, 1943; (2.o) SE REDUZCA EL PAGO DEL CANON A ₱867.00 ANUAL EN VEZ DE ₱1,100.00; (3.o) PARA EL CASO DE QUE DENTRO DEL REFERIDO PLAZO DICHO VENDEDOR A RETRO NO PUDIERA RETRAER AUN LAS REFERIDAS FINCAS LA EXPRESADA VENTA A RETRO ADQUIRIRA EL CARACTER DE ABSOLUTA E IRREVOCABLEMENTE CONSUMADA."

No hubo novacion en cuan a la calidad del precio de recompra; solamente hubo novacion en cuanto al plazo del retracto.

Puesto que la cantidad consignada no era la moneda convenida —pesos filipinos, sino papel moneda japonesa, — la consignacion entonces no es buena, no se ha hecho de acuerdo con la ley.

PADILLA, J., dissenting:

I dissent from the pronouncement that the Japanese military or war notes were legal tender and that the consignation of the repurchase price and stipulated annual rentals was valid, for the same reasons stated in my dissent in La Orden de P. Benedictinos vs. Philippine Trust Company, 47 Off. Gaz. 2894, 2897. That part of the judgment appealed from requiring the vendor's assignee to pay in the present currency the redemption price of the parcels of land sold under a *pacto de retro,* together with the annual rentals due and unpaid, should be affirmed.

II

JACINTO R. BOHOL, PETITIONER VS. MAURO ROSARIO, AS PROVINCIAL AUDITOR OF SAMAR, AND JOSE C. ORTEZA, AS PROVINCIAL TREASURER OF SAMAR, RESPONDENTS, G. R. NO. L-5057, JULY 31, 1953.

1. SALARY LAW; OPINION OF THE SECRETARY OF FINANCE AS TO ITS APPLICATION AND ENFORCEMENT.—The claim that the position of secretary to the provincial governor of a first class A province comes within Grades 1-8, inclusive, is at best highly controversial. But granting again, for the purpose of this case, that by a very liberal interpretation petitioner could qualify under any of these grades as well as Grades 12 to 15, the opinion of the Secretary of Finance, nevertheless, should be entitled to respect and preference in case of overlapping of grades and their definitions and of divergence of views, this official being the instrumentality charged with supervising the allocation of salaries in local governments. He is to judge the kind and degree of ability, experience, training and other circumstances needed to discharge the duties of each position.
2. ID; UNIFORMITY IN THE EMOLUMENTS OF OFFICERS.—It is a manifest policy of Congress that there be a central authority to establish uniformity in the emoluments of officers and employees of equal ranks in the numerous provinces and other local entities. Determination of the rates of compensation of such officers and employees cannot be left to the will and discretion of each provincial board or city or municipal council if there is to be "standardization of salaries," "equal distribution of funds for salary expenses among the different provincial offices," or security of "the financial solvency and stability of the provinces," as provided by Executive Order No. 167, series of 1938.
3. CONSTITUTION; LEGITIMATE EXERCISE OF THE POWER OF SUPERVISION VESTED IN THE PRESIDENT.—Classification through the President of government positions is a legislative prerogative, and the President's designation by executive order of his chief financial officer to see that the classification and the Salary Law are observed by local governments, is a legitimate exercise of the power of supervision vested in the Chief Executive by Section 10(1), Article VII, of the Constitution.

Jacinto Bohol for appellant Sol. Gen. Pompeyo Diaz and Solicitor Emilio Lumontad for respondents.

D E C I S I O N

TUAZON J.:

This was a proceeding for mandamus instituted in the Court of First Instance of Samar against Mauro Rosario, as provincial auditor, and Jose C. Orteza, as provincial treasurer, both of that province. By order of the court the petition was amended by including the Secretary of Finance as party respondent. Upon trial of the case, the application was denied, and the petitioner appealed.

Petitioner Jacinto R. Bohol is Secretary to the Provincial Governor of Samar. On July 19, 1950, his salary was raised from ₱3,120 to ₱3,600 a year "as an exceptional case under Section 256 of the Revised Administrative Code," and on July 20, the raise was approved by the provincial board by appropriate resolution. But the Secretary of Finance, acting on the annual budget of the province, disapproved the petitioner's promotion with this comment: "The standard rate of salary fixed by this Department for same position in a first class A province like Samar is ₱2,760 per annum. However, as it appears that the incumbent of this position is already receiving ₱3,120 per annum, this rate may be reduced to ₱2,760 per annum, only upon vacancy of the position." On account of this disapproval, the provincial auditor refused to pass in audit, and the provincial treasurer to pay, the petitioner's voucher on the differential between the old and the new rates of compensation corresponding to the second half of July.

Commonwealth Act No. 78, approved October 26, 1936, transferred to the Secretary of Finance the power and administrative supervision theretofore exercised by the Secretary of Interior over the assessment of real property, appropriation, and other financial affairs of provincial, municipal and city governments, and over the offices of provincial, municipal and city treasurers and provincial and city assessors. In pursuance of this Act, Executive Order No. 167, series of 1938, was promulgated designating "the Secretary of Finance as the agency of the National Government for the supervi-